

## [CHAPTER 722]

## AN ACT

September 18, 1940  
[S. 2009]  
[Public, No. 786]

Transportation Act  
of 1940.

To amend the Act to regulate commerce, approved February 4, 1887, as amended, so as to provide for unified regulation of carriers by railroad, motor vehicle, and water, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act, divided into titles and sections according to the following table of contents, may be cited as the Transportation Act of 1940:

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## TITLE I—AMENDMENTS TO EXISTING LAW

## SHORT TITLE FOR ACT TO REGULATE COMMERCE; DECLARATION OF NATIONAL TRANSPORTATION POLICY

SECTION 1. The Act entitled "An Act to regulate commerce", approved February 4, 1887, as amended (U. S. C., 1934 edition, title 49, secs. 1-27; Supp. IV, title 49, secs. 3, 6, 11, 15, 18, 21, 22, 25, 26, 301-327), is amended by inserting before part I the following:

24 Stat. 379.

## "SHORT TITLE

"This Act may be cited as the Interstate Commerce Act.

Interstate Commerce Act.

## "NATIONAL TRANSPORTATION POLICY

"It is hereby declared to be the national transportation policy of the Congress to provide for fair and impartial regulation of all modes of transportation subject to the provisions of this Act, so administered as to recognize and preserve the inherent advantages of each; to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers; to encourage the establishment and maintenance of reasonable charges for transportation services, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices; to cooperate with the several States and the duly authorized officials thereof; and to encourage fair wages and equitable working conditions;—all to the end of developing, coordinating, and preserving a national transportation system by water, highway, and rail, as well as other means, adequate to meet the needs of the commerce of the United States, of the Postal Service, and of the national defense. All of the provisions of this Act shall be administered and enforced with a view to carrying out the above declaration of policy."

National transportation policy.

## AMENDMENTS TO SECTION 1 (3), (4), AND (5)

SEC. 2. (a) Paragraph (3) of section 1 of the Interstate Commerce Act, as amended, is amended by inserting after "(3)" the letter "(a)" and by adding at the end thereof a new sentence as follows: "The term 'person' as used in this part includes an individual, firm, copartnership, corporation, company, association, or joint-stock association; and includes a trustee, receiver, assignee, or personal representative thereof."

(b) Such paragraph (3) is amended by adding at the end thereof a new subparagraph (b) as follows:

"(b) For the purposes of sections 5, 12 (1), 20, 204 (a) (7), 210, 220, 304 (b), 310, and 313 of this Act, where reference is made to control (in referring to a relationship between any person or persons and

Part I of the Interstate Commerce Act.  
Post, p. 919.  
"Person" defined.  
41 Stat. 474.  
49 U. S. C. § 1 (3).

"Control" construed.  
Post, pp. 905, 910, 916, 922, 923, 926, 933, 943, 944.

another person or persons), such reference shall be construed to include actual as well as legal control, whether maintained or exercised through or by reason of the method of or circumstances surrounding organization or operation, through or by common directors, officers, or stockholders, a voting trust or trusts, a holding or investment company or companies, or through or by any other direct or indirect means; and to include the power to exercise control."

41 Stat. 475.  
49 U. S. C. § 1 (4).  
*Ante*, p. 899.

(c) Paragraph (4) of such section 1 (which relates to the duty of common carriers subject to part I to establish through routes and rates applicable thereto), is amended to read as follows:

Through routes,  
rates, etc.

"(4) It shall be the duty of every common carrier subject to this part to provide and furnish transportation upon reasonable request therefor, and to establish reasonable through routes with other such carriers, and just and reasonable rates, fares, charges, and classifications applicable thereto; and it shall be the duty of common carriers by railroad subject to this part to establish reasonable through routes with common carriers by water subject to part III, and just and reasonable rates, fares, charges, and classifications applicable thereto. It shall be the duty of every such common carrier establishing through routes to provide reasonable facilities for operating such routes and to make reasonable rules and regulations with respect to their operation, and providing for reasonable compensation to those entitled thereto; and in case of joint rates, fares, or charges, to establish just, reasonable, and equitable divisions thereof, which shall not unduly prefer or prejudice any of such participating carriers."

*Post*, p. 929.

Operating facilities.

Divisions of joint  
rates.

41 Stat. 475.  
49 U. S. C. § 1 (5).

(d) Paragraph (5) of such section 1 is amended by inserting after "(5)" the letter "(a)" and by striking out the following: "*And provided further*, That nothing in this part shall be construed to prevent telephone, telegraph and cable companies from entering into contracts with common carriers for the exchange of services", and by adding after such paragraph (5) (a) a new paragraph as follows:

Contracts with tele-  
phone, etc., com-  
panies.

"(b) Nothing in this Act shall be construed to prevent any common carrier subject to this Act from entering into or operating under any contract with any telephone, telegraph, or cable company, for the exchange of their services."

#### TRANSPORTATION FREE OR AT REDUCED RATES

41 Stat. 475.  
49 U. S. C. § 1 (7).

SEC. 3. (a) Paragraph (7) of section 1 of the Interstate Commerce Act, as amended, is amended by striking out "and their families, its officers, agents, surgeons, physicians, and attorneys at law;" and inserting in lieu thereof a comma and the following: "its officers, surgeons, physicians, and attorneys at law, and the families of any of the foregoing; to the executive officers, general chairmen, and counsel of employees' organizations when such organizations are authorized and designated to represent employees in accordance with the provisions of the Railway Labor Act;"

44 Stat. 577.  
45 U. S. C., ch. 8;  
Supp. V, ch. 8.

(b) Such paragraph (7) is further amended by striking out "to Railway Mail Service employees, post-office inspectors," and inserting in lieu thereof "to railway mail-service employees and persons in charge of the mails when on duty and traveling to and from duty, and all duly accredited agents and officers of the Post Office Department and the Railway Mail Service and post-office inspectors while traveling on official business, upon the exhibition of their credentials; to".

25 Stat. 862.  
49 U. S. C. § 22;  
Supp. V, § 22.

(c) The first sentence of paragraph (1) of section 22 of the Interstate Commerce Act, as amended, is amended—

(1) by inserting after "the necessary agents employed in such transportation," the following: "or the transportation of persons for the United States Government free or at reduced rates,"; and

(2) by inserting after "free carriage to their own officers and employees," the following: "or to prevent the free carriage, storage, or handling by a carrier of the household goods and other personal effects of its own officers or employees when such goods and effects must necessarily be moved from one place to another as a result of a change in the place of employment of such officers or employees while in the service of the carrier,".

(d) The last sentence of paragraph (1) of such section 22 (which relates to reduced rates to improve housing conditions, and so forth) is hereby repealed.

(e) Paragraph (1) of such section 22 is hereby amended by striking out "(1)"; and paragraphs (2) and (3) of such section 22 (which relate to the issuance of interchangeable mileage tickets), are hereby repealed.

48 Stat. 1264.  
49 U. S. C. § 22 (1);  
Supp. V, § 22 (1).

42 Stat. 827; 25 Stat.  
862.  
49 U. S. C. § 22;  
Supp. V, § 22.

#### AMENDMENTS TO SECTION 1 (14), (17), AND (18)

SEC. 4. (a) Paragraph (14) of section 1 of the Interstate Commerce Act, as amended, is amended to read as follows:

"(14) (a) The Commission may, after hearing, on a complaint or upon its own initiative without complaint, establish reasonable rules, regulations, and practices with respect to car service by common carriers by railroad subject to this part, including the compensation to be paid and other terms of any contract, agreement, or arrangement for the use of any locomotive, car, or other vehicle not owned by the carrier using it (and whether or not owned by another carrier), and the penalties or other sanctions for nonobservance of such rules, regulations, or practices.

41 Stat. 476.  
49 U. S. C. § 1 (14).

Car service.  
Establishment of  
rules, etc.

"(b) It shall be unlawful for any common carrier by railroad or express company, subject to this part, to make or enter into any contract, agreement, or arrangement with any person for the furnishing to or on behalf of such carrier or express company of protective service against heat or cold to property transported or to be transported in interstate or foreign commerce, or for any such carrier or express company to continue after April 1, 1941, as a party to any such contract, agreement, or arrangement unless and until such contract, agreement, or arrangement has been submitted to and approved by the Commission as just, reasonable, and consistent with the public interest: *Provided*, That if the Commission is unable to make its determination with respect to any such contract, agreement, or arrangement prior to said date, it may extend it to not later than October 1, 1941."

Contracts for protective service against heat or cold.

(b) Paragraph (17) of such section 1 (which relates to the duty of carriers by railroad, and their agents, to obey orders of the Commission relating to car service) is amended by inserting after "(17)" the letter "(a)"; and by adding after such paragraph (17) (a) the following new subparagraph:

*Proviso.*  
Time extension.

41 Stat. 477.  
49 U. S. C. § 1 (17).

"(b) It shall be unlawful for any person to offer or give or cause or procure to be offered or given, directly or indirectly, any money, property, or thing of value, or bribe in any other form whatsoever, to any person acting for or employed by any carrier by railroad subject to this part with intent to influence his decision or action, or because of his decision or action, with respect to the supply, distribution, or movement of cars or other vehicles, or vessels, used in the transportation of property. It shall be unlawful for any person acting for or employed by any carrier by railroad subject to this part to solicit, accept, or receive, directly or indirectly, any money, property, or thing of value, or bribe in any other form whatsoever, with intent to be influenced thereby in his decision or action, or because of his decision or action, with respect to the supply, distribution, or movement of cars or other vehicles, or vessels, used in the transportation

Bribery.

## Penalty.

of property. Any person who violates the provisions of this subparagraph shall be deemed guilty of a misdemeanor and be subject for each offense to a fine of not more than \$1,000, or imprisonment in the penitentiary for a term of not more than two years, or both such fine and imprisonment."

41 Stat. 477.  
49 U. S. C. § 1 (18).  
Spur, etc., tracks.  
*Post*, p. 905.

(c) Paragraph (18) of such section 1 is amended by adding at the end thereof a new sentence as follows: "Nothing in this paragraph or in section 5 shall be considered to prohibit the making of contracts between carriers by railroad subject to this part, without the approval of the Commission, for the joint ownership or joint use of spur, industrial, team, switching, or side tracks."

## AMENDMENTS TO SECTION 3

41 Stat. 479.  
49 U. S. C. § 3 (1);  
Supp. V, § 3.  
*Ante*, p. 899.

SEC. 5. (a) Paragraph (1) of section 3 of the Interstate Commerce Act, as amended (which prohibits the giving of undue or unreasonable preferences or advantages by carriers subject to part I), is amended to read as follows:

## Undue preference.

"(1) It shall be unlawful for any common carrier subject to the provisions of this part to make, give, or cause any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, association, locality, port, port district, gateway, transit point, region, district, territory, or any particular description of traffic, in any respect whatsoever; or to subject any particular person, company, firm, corporation, association, locality, port, port district, gateway, transit point, region, district, territory, or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever: *Provided, however*, That this paragraph shall not be construed to apply to discrimination, prejudice, or disadvantage to the traffic of any other carrier of whatever description.

## Undue disadvantage.

*Proviso.*  
Construction of paragraph, restriction.

Export rates on farm commodities.

"(1a) It is hereby declared to be the policy of Congress that shippers of wheat, cotton, and all other farm commodities for export shall be granted export rates on the same principles as are applicable in the case of rates on industrial products for export. The Commission is hereby directed, on its own initiative or an application by interested persons, to make such investigations and conduct such hearings, and, after appropriate proceedings, to issue such orders, as may be necessary to carry out such policy."

## Rate investigations.

*Ante*, p. 899.

(b) The Interstate Commerce Commission is authorized and directed to institute an investigation into the rates on manufactured products, agricultural commodities, and raw materials, between points in one classification territory and points in another such territory, and into like rates within any of such territories, maintained by common carriers by rail or water subject to part I of the Interstate Commerce Act, as amended, for the purpose of determining whether said rates are unjust and unreasonable or unlawful in any other respect in and of themselves or in their relation to each other, and to enter such orders as may be appropriate for the removal of any unlawfulness which may be found to exist: *Provided*, That the Commission in its discretion may confine its investigation to such manufactured products, agricultural commodities, and raw materials, and the rates thereon as shippers thereof may specifically request be included in such investigation.

*Proviso.*  
Scope of investigation.

41 Stat. 479.  
49 U. S. C. § 3 (2).

Reconsignments,  
etc.; liability of beneficial owner.

(c) Paragraph (2) of such section 3 (which requires payment of charges prior to delivery of freight, and prescribes certain rules of liability for payment of charges), is amended by adding at the end the following sentences: "On shipments reconsigned or diverted by an agent who has furnished the carrier in the reconsignment or

diversion order with a notice of agency and the proper name and address of the beneficial owner, and where such shipments are refused or abandoned at ultimate destination, the said beneficial owner shall be liable for all legally applicable charges in connection therewith. If the reconsignor or diverter has given to the carrier erroneous information as to who the beneficial owner is, such reconsignor or diverter shall himself be liable for all such charges, and an action for the enforcement of his liability may be begun within the same period provided in the case of an action against a consignee who has given erroneous information as to the beneficial owner."

(d) Such section 3 is amended by adding after paragraph (2) thereof the following new paragraph:

"(3) If a shipper or consignor of a shipment of property (other than a prepaid shipment) is also the consignee named in the bill of lading and, prior to the time of delivery, notifies, in writing, a delivering carrier by railroad or a delivering express company subject to the provisions of this part, (a) to deliver such property at destination to another party, (b) that such party is the beneficial owner of such property, and (c) that delivery is to be made to such party only upon payment of all transportation charges in respect of the transportation of such property, and delivery is made by the carrier to such party without such payment, such shipper or consignor shall not be liable (as shipper, consignor, consignee, or otherwise) for such transportation charges but the party to whom delivery is so made shall in any event be liable for transportation charges billed against the property at the time of such delivery, and also for any additional charges which may be found to be due after delivery of the property, except that if such party prior to such delivery has notified in writing the delivering carrier that he is not the beneficial owner of the property, and has given in writing to such delivering carrier the name and address of such beneficial owner, such party shall not be liable for any additional charges which may be found to be due after delivery of the property; but if the party to whom delivery is made has given to the carrier erroneous information as to the beneficial owner, such party shall nevertheless be liable for such additional charges. If the shipper or consignor has given to the delivering carrier erroneous information as to who the beneficial owner is, such shipper or consignor shall himself be liable for such transportation charges, notwithstanding the foregoing provisions of this paragraph and irrespective of any provisions to the contrary in the bill of lading or in the contract of transportation under which the shipment was made. An action for the enforcement of such liability either against the party to whom delivery is made or the shipper or consignor may be begun within the period provided in paragraph (3) of section 16, or before the expiration of six months after final judgment against the carrier in an action against either of such parties begun within the limitation period provided in paragraph (3) of section 16. The term 'delivering carrier' means the line-haul carrier making ultimate delivery."

(e) Paragraph (3) of such section 3 (which relates to the affording of facilities for interchange of traffic), is amended by striking out "(3)" and substituting in lieu thereof "(4)" and is further amended to read as follows:

"(4) All carriers subject to the provisions of this part shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines and connecting lines, and for the receiving, forwarding, and delivering of passengers or property to and from connecting lines; and shall not discriminate in their rates, fares, and

41 Stat. 479.  
49 U. S. C. § 3 (2).

Liability of shipper  
when consignee.

Liability of receiver.

Exception.

Liability of shipper.

Time limitations.  
41 Stat. 492.  
49 U. S. C. § 16 (3).

"Delivering carrier"  
defined.

41 Stat. 479.  
49 U. S. C. § 3 (3).

Facilities for inter-  
change of traffic.

Rates.

"Connecting line" defined.

*Post*, p. 929.

41 Stat. 479.  
49 U. S. C. § 3 (4).  
Common use of terminals.

charges between connecting lines, or unduly prejudice any connecting line in the distribution of traffic that is not specifically routed by the shipper. As used in this paragraph the term 'connecting line' means the connecting line of any carrier subject to the provisions of this part or any common carrier by water subject to part III."

(f) Paragraph (4) of such section 3 (which relates to the Commission's power to require common use of terminals), is amended—

(1) by striking out "(4)" and substituting in lieu thereof "(5)";

(2) by striking out in the first sentence the words "a carrier" and substituting in lieu thereof the words "a common carrier by railroad";

(3) by striking out in the first sentence the words "any carrier, by another carrier or other carriers" and substituting in lieu thereof the words "any common carrier by railroad, by another such carrier or other such carriers"; and

(4) by adding after the words "shall have power" in the first sentence the words "by order".

#### LONG AND SHORT HAUL PROVISION

SEC. 6. (a) Paragraph (1) of section 4 of the Interstate Commerce Act, as amended, is amended to read as follows:

"(1) It shall be unlawful for any common carrier subject to this part or part III to charge or receive any greater compensation in the aggregate for the transportation of passengers, or of like kind of property, for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through rate than the aggregate of the intermediate rates subject to the provisions of this part or part III, but this shall not be construed as authorizing any common carrier within the terms of this part or part III to charge or receive as great compensation for a shorter as for a longer distance: *Provided*, That upon application to the Commission such common carrier may in special cases, after investigation, be authorized by the Commission to charge less for longer than for shorter distances for the transportation of passengers or property; and the Commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section, but in exercising the authority conferred upon it in this proviso the Commission shall not permit the establishment of any charge to or from the more distant point that is not reasonably compensatory for the service performed; and no such authorization shall be granted on account of merely potential water competition not actually in existence: *And provided further*, That tariffs proposing rates subject to the provisions of this paragraph may be filed when application is made to the Commission under the provisions hereof, and in the event such application is approved, the Commission shall permit such tariffs to become effective upon one day's notice."

(b) In the case of a carrier heretofore subject to the provisions of paragraph (1) of section 4 of the Interstate Commerce Act, as amended, no rate, fare, or charge lawfully in effect at the time of the enactment of this Act shall be required to be changed by reason of the amendments made to such paragraph by subsection (a) of this section. In the case of a carrier not heretofore subject to the provisions of such paragraph, no rate, fare, or charge lawfully in effect at the time of the enactment of this Act shall be required to be changed, by reason of the provisions of such paragraph, as amended by subsection (a) of this section, prior to six months after the enactment of this Act, or in case application for the continuance of any such existing rate,

41 Stat. 480.  
49 U. S. C. § 4 (1).

Long and short hauls, through routes, etc.

Unlawful charges.  
*Post*, p. 929.

*Proviso*.  
Special cases.

Tariff proposals.

When effective.

Temporary continuance of existing rates.

fare, or charge is filed with the Interstate Commerce Commission within such six months period, until the Commission has acted upon such application.

#### POOLING; UNIFICATIONS, MERGERS, AND ACQUISITIONS OF CONTROL

SEC. 7. Section 5 of the Interstate Commerce Act, as amended, is amended to read as follows:

"SEC. 5. (1) Except upon specific approval by order of the Commission as in this section provided, and except as provided in paragraph (16) of section 1 of this part, it shall be unlawful for any common carrier subject to this part, part II, or part III to enter into any contract, agreement, or combination with any other such common carrier or carriers for the pooling or division of traffic, or of service, or of gross or net earnings, or of any portion thereof; and in any case of an unlawful agreement for the pooling or division of traffic, service, or earnings as aforesaid each day of its continuance shall be a separate offense: *Provided*, That whenever the Commission is of opinion, after hearing upon application of any such carrier or carriers or upon its own initiative, that the pooling or division, to the extent indicated by the Commission, of their traffic, service, or gross or net earnings, or of any portion thereof, will be in the interest of better service to the public or of economy in operation, and will not unduly restrain competition, the Commission shall by order approve and authorize, if assented to by all the carriers involved, such pooling or division, under such rules and regulations, and for such consideration as between such carriers and upon such terms and conditions, as shall be found by the Commission to be just and reasonable in the premises: *Provided further*, That any contract, agreement, or combination to which any common carrier by water subject to part III is a party, relating to the pooling or division of traffic, service, or earnings, or any portion thereof, lawfully existing on the date this paragraph as amended takes effect, if filed with the Commission within six months after such date, shall continue to be lawful except to the extent that the Commission, after hearing upon application or upon its own initiative, may find and by order declare that such contract, agreement, or combination is not in the interest of better service to the public or of economy in operation, or that it will unduly restrain competition.

"(2) (a) It shall be lawful, with the approval and authorization of the Commission, as provided in subdivision (b)—

"(i) for two or more carriers to consolidate or merge their properties or franchises, or any part thereof, into one corporation for the ownership, management, and operation of the properties theretofore in separate ownership; or for any carrier, or two or more carriers jointly, to purchase, lease, or contract to operate the properties, or any part thereof, of another; or for any carrier, or two or more carriers jointly, to acquire control of another through ownership of its stock or otherwise; or for a person which is not a carrier to acquire control of two or more carriers through ownership of their stock or otherwise; or for a person which is not a carrier and which has control of one or more carriers to acquire control of another carrier through ownership of its stock or otherwise; or

"(ii) for a carrier by railroad to acquire trackage rights over, or joint ownership in or joint use of, any railroad line or lines owned or operated by any other such carrier, and terminals incidental thereto.

41 Stat. 480.  
49 U. S. C. § 5 (1).

Unlawful agreements.  
Pooling, etc.  
41 Stat. 477.  
49 U. S. C. § 1 (16)  
*Post*, pp. 919, 929.

*Propisos.*  
Approval when in  
interest of better service.

Contract, etc., in  
which carrier by water  
is a party.  
*Post*, p. 929.

Mergers.



Application.	<p>“(b) Whenever a transaction is proposed under subparagraph (a), the carrier or carriers or person seeking authority therefor shall present an application to the Commission, and thereupon the Commission shall notify the Governor of each State in which any part of the properties of the carriers involved in the proposed transaction is situated, and also such carriers and the applicant or applicants (and, in case carriers by motor vehicle are involved, the persons specified in section 205 (e)), and shall afford reasonable opportunity for interested parties to be heard. If the Commission shall consider it necessary in order to determine whether the findings specified below may properly be made, it shall set said application for public hearing, and a public hearing shall be held in all cases where carriers by railroad are involved. If the Commission finds that, subject to such terms and conditions and such modifications as it shall find to be just and reasonable, the proposed transaction is within the scope of subparagraph (a) and will be consistent with the public interest, it shall enter an order approving and authorizing such transaction, upon the terms and conditions, and with the modifications, so found to be just and reasonable: <i>Provided</i>, That if a carrier by railroad subject to this part, or any person which is controlled by such a carrier, or affiliated therewith within the meaning of paragraph (6), is an applicant in the case of any such proposed transaction involving a motor carrier, the Commission shall not enter such an order unless it finds that the transaction proposed will be consistent with the public interest and will enable such carrier to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition.</p>
Notice to Governor.	
Hearing. 49 Stat. 550. 49 U. S. C., Supp. V, § 305 (f). Post, p. 922.	
Approval.	
Proviso. When motor carrier involved.	
Considerations.	<p>“(c) In passing upon any proposed transaction under the provisions of this paragraph (2), the Commission shall give weight to the following considerations, among others: (1) The effect of the proposed transaction upon adequate transportation service to the public; (2) the effect upon the public interest of the inclusion, or failure to include, other railroads in the territory involved in the proposed transaction; (3) the total fixed charges resulting from the proposed transaction; and (4) the interest of the carrier employees affected.</p>
Conditions prerequisite to approval.	<p>“(d) The Commission shall have authority in the case of a proposed transaction under this paragraph (2) involving a railroad or railroads, as a prerequisite to its approval of the proposed transaction, to require, upon equitable terms, the inclusion of another railroad or other railroads in the territory involved, upon petition by such railroad or railroads requesting such inclusion, and upon a finding that such inclusion is consistent with the public interest.</p>
Payment of dividends.	<p>“(e) No transaction which contemplates a guaranty or assumption of payment of dividends or of fixed charges, shall be approved by the Commission under this paragraph (2) except upon a specific finding by the Commission that such guaranty or assumption is not inconsistent with the public interest. No transaction shall be approved under this paragraph (2) which will result in an increase of total fixed charges, except upon a specific finding by the Commission that such increase would not be contrary to public interest.</p>
Protection of employees.	<p>“(f) As a condition of its approval, under this paragraph (2), of any transaction involving a carrier or carriers by railroad subject to the provisions of this part, the Commission shall require a fair and equitable arrangement to protect the interests of the railroad employees affected. In its order of approval the Commission shall include terms and conditions providing that during the period of four years from the effective date of such order such transaction will not result in employees of the carrier or carriers by railroad affected by such order being in a worse position with respect to their employ-</p>

ment, except that the protection afforded to any employee pursuant to this sentence shall not be required to continue for a longer period, following the effective date of such order, than the period during which such employee was in the employ of such carrier or carriers prior to the effective date of such order. Notwithstanding any other provisions of this Act, an agreement pertaining to the protection of the interests of said employees may hereafter be entered into by any carrier or carriers by railroad and the duly authorized representative or representatives of its or their employees.

“(3) Whenever a person which is not a carrier is authorized, by an order entered under paragraph (2), to acquire control of any carrier or of two or more carriers, such person thereafter shall, to the extent provided by the Commission in such order, be considered as a carrier subject to such of the following provisions as are applicable to any carrier involved in such acquisition of control: Section 20 (1) to (10), inclusive, of this part, sections 204 (a) (1) and (2) and 220 of part II, and section 313 of part III, (which relate to reports, accounts, and so forth, of carriers), and section 20a (2) to (11), inclusive, of this part, and section 214 of part II, (which relate to issues of securities and assumptions of liability of carriers), including in each case the penalties applicable in the case of violations of such provisions. In the application of such provisions of section 20a of this part and of section 214 of part II, in the case of any such person, the Commission shall authorize the issue or assumption applied for only if it finds that such issue or assumption is consistent with the proper performance of its service to the public by each carrier which is under the control of such person, that it will not impair the ability of any such carrier to perform such service, and that it is otherwise consistent with the public interest.

“(4) It shall be unlawful for any person, except as provided in paragraph (2), to enter into any transaction within the scope of subparagraph (a) thereof, or to accomplish or effectuate, or to participate in accomplishing or effectuating, the control or management in a common interest of any two or more carriers, however such result is attained, whether directly or indirectly, by use of common directors, officers, or stockholders, a holding or investment company or companies, a voting trust or trusts, or in any other manner whatsoever. It shall be unlawful to continue to maintain control or management accomplished or effectuated after the enactment of this amendatory paragraph and in violation of its provisions. As used in this paragraph and paragraph (5), the words ‘control or management’ shall be construed to include the power to exercise control or management.

“(5) For the purposes of this section, but not in anywise limiting the application of the provisions thereof, any transaction shall be deemed to accomplish or effectuate the control or management in a common interest of two carriers—

“(a) if such transaction is by a carrier, and if the effect of such transaction is to place such carrier and persons affiliated with it, taken together, in control of another carrier;

“(b) if such transaction is by a person affiliated with a carrier, and if the effect of such transaction is to place such carrier and persons affiliated with it, taken together, in control of another carrier;

“(c) if such transaction is by two or more persons acting together, one of whom is a carrier or is affiliated with a carrier, and if the effect of such transaction is to place such persons and carriers and persons affiliated with any one of them and persons affiliated with any such affiliated carrier, taken together, in control of another carrier.

Control by person  
not a carrier.

Post, p. 916.  
49 Stat. 546.  
Post, pp. 928, 944.  
41 Stat. 494.  
Post, p. 924.

Control in common  
interest.

“Control or manage-  
ment” construed.

Transactions effect-  
uating control in  
common interest.

When person held to be affiliated with carrier.

"(6) For the purposes of this section a person shall be held to be affiliated with a carrier if, by reason of the relationship of such person to such carrier (whether by reason of the method of, or circumstances surrounding organization or operation, or whether established through common directors, officers, or stockholders, a voting trust or trusts, a holding or investment company or companies, or any other direct or indirect means), it is reasonable to believe that the affairs of any carrier of which control may be acquired by such person will be managed in the interest of such other carrier.

Investigation of violations.

Order to prevent continuance.

Provisions deemed additional.

Jurisdiction of district courts.

"(7) The Commission is hereby authorized, upon complaint or upon its own initiative without complaint, but after notice and hearing, to investigate and determine whether any person is violating the provisions of paragraph (4). If the Commission finds after such investigation that such person is violating the provisions of such paragraph, it shall by order require such person to take such action as may be necessary, in the opinion of the Commission, to prevent continuance of such violation. The provisions of this paragraph shall be in addition to, and not in substitution for, any other enforcement provisions contained in this part; and with respect to any violation of paragraphs (2) to (12), inclusive, of this section, any penalty provision applying to such a violation by a common carrier subject to this part shall apply to such a violation by any other person.

Supplemental orders.

Motor carriers, merger, control, etc.

Post, p. 919.

Ante, p. 899.

Authority conferred deemed exclusive and plenary.

"(8) The district courts of the United States shall have jurisdiction upon the complaint of the Commission, alleging a violation of any of the provisions of this section or disobedience of any order issued by the Commission thereunder by any person, to issue such writs of injunction or other proper process, mandatory or otherwise, as may be necessary to restrain such person from violation of such provision or to compel obedience to such order.

"(9) The Commission may from time to time, for good cause shown, make such orders, supplemental to any order made under paragraph (1), (2), or (7), as it may deem necessary or appropriate.

"(10) Nothing in this section shall be construed to require the approval or authorization of the Commission in the case of a transaction within the scope of paragraph (2) where the only parties to the transaction are motor carriers subject to part II (but not including a motor carrier controlled by or affiliated with a carrier as defined in section 1 (3)), and where the aggregate number of motor vehicles owned, leased, controlled, or operated by such parties, for purposes of transportation subject to part II, does not exceed twenty.

"(11) The authority conferred by this section shall be exclusive and plenary, and any carrier or corporation participating in or resulting from any transaction approved by the Commission thereunder, shall have full power (with the assent, in the case of a purchase and sale, a lease, a corporate consolidation, or a corporate merger, of a majority, unless a different vote is required under applicable State law, in which case the number so required shall assent, of the votes of the holders of the shares entitled to vote of the capital stock of such corporation at a regular meeting of such stockholders, the notice of such meeting to include such purpose, or at a special meeting thereof called for such purpose) to carry such transaction into effect and to own and operate any properties and exercise any control or franchises acquired through said transaction without invoking any approval under State authority; and any carriers or other corporations, and their officers and employees and any other persons, participating in a transaction approved or authorized under the provisions of this section shall be and they are hereby relieved from the operation of the antitrust laws and of all other restraints, limitations, and prohibitions of law, Federal, State, or municipal, insofar as may be necessary to enable them to

When carriers relieved from antitrust laws, etc.

carry into effect the transaction so approved or provided for in accordance with the terms and conditions, if any, imposed by the Commission, and to hold, maintain, and operate any properties and exercise any control or franchises acquired through such transaction. Nothing in this section shall be construed to create or provide for the creation, directly or indirectly, of a Federal corporation, but any power granted by this section to any carrier or other corporation shall be deemed to be in addition to and in modification of its powers under its corporate charter or under the laws of any State.

Federal corporation.

“(12) If any provision of the foregoing paragraphs of this section, or the application thereof to any person or circumstances, is held invalid, the other provisions of such paragraphs, and the application of such provision to any other person or circumstances, shall not be affected thereby.

Saving clause.

“(13) As used in paragraphs (2) to (12), inclusive, the term ‘carrier’ means a carrier by railroad and an express company, subject to this part; a motor carrier subject to part II; and a water carrier subject to part III.

“Carrier” defined.

Post, pp. 919, 929.

“(14) Notwithstanding the provisions of paragraph (2), from and after the 1st day of July 1914, it shall be unlawful for any carrier, as defined in section 1 (3), or (after the date of the enactment of this amendatory section) any person controlling, controlled by, or under common control with, such a carrier to own, lease, operate, control, or have any interest whatsoever (by stock ownership or otherwise, either directly, indirectly, through any holding company, or by stockholders or directors in common, or in any other manner) in any common carrier by water operated through the Panama Canal or elsewhere with which such carrier aforesaid does or may compete for traffic or any vessel carrying freight or passengers upon said water route or elsewhere with which said railroad or other carrier aforesaid does or may compete for traffic; and in case of the violation of this provision each day in which such violation continues shall be deemed a separate offense.

Interest in competing water carrier.

Ante, p. 899.

“(15) Jurisdiction is hereby conferred on the Commission to determine questions of fact, arising under paragraph (14), as to the competition or possibility of competition, after full hearing, on the application of any railroad company or other carrier. Such application may be filed for the purpose of determining whether any existing service is in violation of such paragraph and may pray for an order permitting the continuance of any vessel or vessels already in operation, or may pray for an order under the provisions of paragraph (16). The Commission may on its own motion or the application of any shipper institute proceedings to inquire into the operation of any vessel in use by any railroad or other carrier which has not applied to the Commission and had the question of competition or the possibility of competition determined as herein provided. In all such cases the order of said Commission shall be final.

Determination of question of competition.

“(16) Notwithstanding the provisions of paragraph (14), the Commission shall have authority, upon application of any carrier, as defined in section 1 (3), and after hearing, by order to authorize such carrier to own or acquire ownership of, to lease or operate, to have or acquire control of, or to have or acquire an interest in, a common carrier by water or vessel, not operated through the Panama Canal, with which the applicant does or may compete for traffic, if the Commission shall find that the continuance or acquisition of such ownership, lease, operation, control, or interest will not prevent such common carrier by water or vessel from being operated in the interest of the public and with advantage to the convenience and commerce of the people, and that it will not exclude, prevent, or reduce competition on the route by water under consideration:

Authority to authorize interest in competing water carrier.  
Ante, p. 899.

*Provisos.*  
Application of additional provisions.

Authorization unnecessary if extension order in effect.

37 Stat. 567.  
49 U. S. C. § 5 (21).

*Provided*, That if the transaction or interest sought to be entered into, continued, or acquired is within the scope of paragraph (2) (a), the provisions of paragraph (2) shall be applicable thereto in addition to the provisions of this paragraph: *And provided further*, That no such authorization shall be necessary if the carrier having the ownership, lease, operation, control, or interest has, prior to the date this section as amended becomes effective, obtained an order of extension under the provisions of paragraph (21) of this section, as in effect prior to such date, and such order is still in effect."

#### AMENDMENTS TO SECTION 6

41 Stat. 483.  
49 U. S. C. § 6 (6).  
Schedules.  
*Ante*, p. 899.

Form and manner of filing.

SEC. 8. (a) Paragraph (6) of section 6 of the Interstate Commerce Act, as amended (which relates to the Commission's authority with respect to schedules of carriers subject to part I), is amended to read as follows:

"(6) The schedules required by this section to be filed shall be published, filed, and posted in such form and manner as the Commission by regulation shall prescribe; and the Commission is authorized to reject any schedule filed with it which is not in accordance with this section and with such regulations. Any schedule so rejected by the Commission shall be void and its use shall be unlawful."

Repeal.  
41 Stat. 483.  
49 U. S. C. § 6 (11)-(12).

(b) Paragraphs (11) and (12) of such section 6 (which require any common carrier subject to part I to furnish, on written request, a written statement of the rate applicable to a described shipment, and which require a common carrier by railroad to keep posted in every freight station the name of a resident agent), are hereby repealed.

Through routes.  
Jurisdiction of Commission.  
41 Stat. 483.  
49 U. S. C. § 6 (13).

(c) Paragraph (13) of such section (which relates to the jurisdiction of the Commission as to through routes, joint rates, and other matters in connection with certain combination rail and water transportation), is further amended—

(1) by striking out "(13)" and inserting in lieu thereof "(11)";

(2) by repealing subparagraph (b) thereof;

(3) by striking out "(c)" in subparagraph (c) thereof and inserting in lieu thereof "(b)"; and

(4) by repealing subparagraph (d) thereof.

(d) Such section 6 is further amended by inserting at the end thereof a new paragraph as follows:

Arrangements with water carriers in foreign, etc., trade.

"(12) If any common carrier subject to this Act enters into arrangements with any water carrier operating from a port in the United States to a foreign country, through the Panama Canal or otherwise, for the handling of through business between interior points of the United States and such foreign country, the Commission may by order require such common carrier to enter into similar arrangements with any or all other lines of steamships operating from said port to the same foreign country."

#### AMENDMENTS TO SECTIONS 12 AND 13

41 Stat. 484.  
49 U. S. C. § 12 (1).

SEC. 9. (a) The provisions of paragraph (1) of section 12 of the Interstate Commerce Act, as amended, down to and including the second semicolon therein, are amended to read as follows:

Inquiries and reports on management.

"(1) The Commission shall have authority, in order to perform the duties and carry out the objects for which it was created, to inquire into and report on the management of the business of all common carriers subject to the provisions of this part, and to inquire into and report on the management of the business of persons controlling, controlled by, or under a common control with, such carriers, to the extent that the business of such persons is related to the management of the business of one or more such carriers, and the Commission shall keep

itself informed as to the manner and method in which the same are conducted. The Commission may obtain from such carriers and persons such information as the Commission deems necessary to carry out the provisions of this part; and may transmit to Congress from time to time such recommendations (including recommendations as to additional legislation) as the Commission may deem necessary. The Commission is hereby authorized and required to execute and enforce the provisions of this part;”

(b) Paragraph (2) of section 13 of such Act, as amended (which relates to investigations by the Commission upon complaint or upon its own motion), is amended by adding at the end thereof the following sentence: “Representatives of State commissions sitting with the Commission, under the provisions of this section, in cases pending before the Commission, shall receive such allowances for travel and subsistence expense as the Commission shall provide.”

(c) The last two sentences of paragraph (3) of such section 13 (which relates to the authority of the Commission to confer and cooperate with State authorities in certain cases) are amended by striking out the words “this part” where they appear therein and inserting in lieu thereof “this part or part III”.

#### AMENDMENTS TO SECTIONS 15 AND 15A

SEC. 10. (a) Paragraph (1) of section 15 of the Interstate Commerce Act, as amended (which relates to the Commission’s power to prescribe just and reasonable rates for carriers subject to part I), is amended by striking out the following: “(or, in the case of a through route where one of the carriers is a water line, the maximum rates, fares, and charges applicable thereto)”.

(b) Paragraphs (3) and (4) of such section 15 (which relate to the Commission’s authority to establish through routes and joint rates, fares, and charges, and divisions of such rates, fares, and charges; and which impose certain limitations on the Commission’s power to prescribe through routes) are amended to read as follows:

“(3) The Commission may, and it shall whenever deemed by it to be necessary or desirable in the public interest, after full hearing upon complaint or upon its own initiative without complaint, establish through routes, joint classifications, and joint rates, fares, or charges, applicable to the transportation of passengers or property by carriers subject to this part, or by carriers by railroad subject to this part and common carriers by water subject to part III, or the maxima or minima, or maxima and minima, to be charged, and the divisions of such rates, fares, or charges as hereinafter provided, and the terms and conditions under which such through routes shall be operated. The Commission shall not, however, establish any through route, classification, or practice, or any rate, fare, or charge, between street electric passenger railways not engaged in the general business of transporting freight in addition to their passenger and express business, and railroads of a different character. If any tariff or schedule canceling any through route or joint rate, fare, charge, or classification, without the consent of all carriers parties thereto or authorization by the Commission, is suspended by the Commission for investigation, the burden of proof shall be upon the carrier or carriers proposing such cancelation to show that it is consistent with the public interest, without regard to the provisions of paragraph (4) of this section.

“(4) In establishing any such through route the Commission shall not (except as provided in section 3, and except where one of the carriers is a water line) require any carrier by railroad, without its

Recommendations to Congress.

Enforcement.

41 Stat. 484.  
49 U. S. C. § 13 (2).  
Investigations.

Representatives of State commissions, expenses.

41 Stat. 484; 49 Stat. 543.  
49 U. S. C. § 13; Supp. V, ch. 1 (note).  
Cooperation with States in certain cases.

41 Stat. 484.  
49 U. S. C. § 15 (1).

41 Stat. 485.  
49 U. S. C. § 15 (3) and (4).

Establishment of through routes, joint rates, etc.

Post, p. 929.

Restriction.

Burden of proof in cancelations.

Through routes to embrace entire length; exception.

consent, to embrace in such route substantially less than the entire length of its railroad and of any intermediate railroad operated in conjunction and under a common management or control therewith, which lies between the termini of such proposed through route, (a) unless such inclusion of lines would make the through route unreasonably long as compared with another practicable through route which could otherwise be established, or (b) unless the Commission finds that the through route proposed to be established is needed in order to provide adequate, and more efficient or more economic, transportation: *Provided, however,* That in prescribing through routes the Commission shall, so far as is consistent with the public interest, and subject to the foregoing limitations in clauses (a) and (b), give reasonable preference to the carrier by railroad which originates the traffic. No through route and joint rates applicable thereto shall be established by the Commission for the purpose of assisting any carrier that would participate therein to meet its financial needs. In time of shortage of equipment, congestion of traffic, or other emergency declared by the Commission, it may (either upon complaint or upon its own initiative without complaint, at once, if it so orders, without answer or other formal pleadings by the interested carrier or carriers, and with or without notice, hearing, or the making or filing of a report, according as the Commission may determine) establish temporarily such through routes as in its opinion are necessary or desirable in the public interest."

*Proviso.*  
Preference to carrier  
originating traffic.

Financial considera-  
tions.

Temporary through  
routes in emergencies.

41 Stat. 487.  
49 U. S. C. § 15 (7).

Burden of proof on  
change of rates, rules,  
etc.

41 Stat. 488.  
49 U. S. C. § 15 (13).  
Allowances for serv-  
ices rendered.

41 Stat. 488.  
49 U. S. C. § 15a (2).  
*Ante*, p. 899.

Rate-making policy.

(c) The last sentence of paragraph (7) of such section 15 is amended to read as follows:

"At any hearing involving a change in a rate, fare, charge, or classification, or in a rule, regulation, or practice, after the date this amendatory provision takes effect, the burden of proof shall be upon the carrier to show that the proposed changed rate, fare, charge, classification, rule, regulation, or practice is just and reasonable, and the Commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible."

(d) Paragraph (13) of such section 15 (which relates to allowances to owners of property for services rendered to carriers in connection with transportation) is amended by inserting after "the charge and allowance therefor shall be", the following: "published in tariffs or schedules filed in the manner provided in this part and shall be".

(e) Paragraph (2) of section 15a of the Interstate Commerce Act, as amended (which contains the rule of rate making for part I), is amended to read as follows:

"(2) In the exercise of its power to prescribe just and reasonable rates the Commission shall give due consideration, among other factors, to the effect of rates on the movement of traffic by the carrier or carriers for which the rates are prescribed; to the need, in the public interest, of adequate and efficient railway transportation service at the lowest cost consistent with the furnishing of such service; and to the need of revenues sufficient to enable the carriers, under honest, economical, and efficient management to provide such service."

#### AMENDMENTS TO SECTION 16

SEC. 11. (a) Section 16 of the Interstate Commerce Act, as amended (which relates to orders of the Commission and enforcement thereof), is amended—

(1) by striking out in paragraph (2) thereof the word "circuit" before "court" wherever it appears and substituting in lieu thereof the word "district"; by striking out the word "petition" in the

41 Stat. 491.  
49 U. S. C. § 16;  
Supp. V, § 16 (note).  
Orders of Commis-  
sion.

first sentence and substituting in lieu thereof the word "complaint"; by striking out the word "petitioner" in the second and third sentences and substituting in lieu thereof the word "plaintiff";

(2) by striking out in paragraph (3) (a) thereof the words "three years" and substituting in lieu thereof the words "two years";

(3) by striking out in paragraph (3) (c) thereof the words "three years" and substituting in lieu thereof the words "two years", and by striking out the word "three-year" and substituting in lieu thereof the word "two-year";

(4) by striking out in paragraph (3) (d) thereof the word "three-year" and substituting in lieu thereof the word "two-year";

(5) by striking out in paragraph (3) (f) thereof the word "petition" and substituting in lieu thereof the word "complaint"; and

(6) by striking out in paragraph (12) thereof the words "the Commerce Court" and substituting in lieu thereof the words "any district court of the United States of competent jurisdiction" and by striking out the words "that Court" and the words "the Court" in the second sentence and substituting in lieu thereof the words "such court".

(b) Paragraph (5) of such section 16 is amended by adding at the end thereof a new sentence as follows: "In proceedings before the Commission involving the lawfulness of rates, fares, charges, classifications, or practices, service of notice upon an attorney in fact of a carrier who has filed a tariff or schedule in behalf of such carrier shall be deemed to be due and sufficient service upon the carrier, except where the carrier has designated an agent in the city of Washington, District of Columbia, upon whom service of notices and processes may be made, as provided in section 6 of the Act of June 18, 1910 (U. S. C., 1934 edition, title 49, sec. 50)."

(c) The amendments made by subsection (a) of this section to paragraph (3) (a) and (c) of section 16 of the Interstate Commerce Act, as amended, shall apply only in the case of causes of action accruing after the date this section takes effect.

41 Stat. 492.  
49 U. S. C. § 16 (5).  
Service of notice.

36 Stat. 544.

Application of  
amendments.

#### COMMISSION PROCEDURE; DELEGATION OF DUTIES; REHEARINGS

SEC. 12. Section 16a of the Interstate Commerce Act, as amended, is hereby repealed, and section 17 of such Act, as amended, is amended to read as follows:

"SEC. 17. (1) The Commission is hereby authorized by its order to divide the members thereof into as many divisions (each to consist of not less than three members) as it may deem necessary, which may be changed from time to time. Such divisions shall be designated, respectively, division one, division two, and so forth, or by a term descriptive of the principal subject, work, business, or function assigned or referred to such divisions. The Commission may designate one or more of its divisions as appellate divisions. Any Commissioner may be assigned to such division or divisions as the Commission may direct, and the senior in service of the Commissioners constituting a division shall act as chairman thereof unless otherwise directed by the Commission. When a vacancy occurs in any division or when a Commissioner because of absence, or other cause, is unable to serve thereon, the Chairman of the Commission or any Commissioner designated by him for that purpose may serve temporarily on such division until the Commission otherwise orders.

"(2) The Commission may by order direct that any of its work, business, or functions under any provision of law (except matters

34 Stat. 592.  
49 U. S. C. § 16a.  
41 Stat. 492.  
49 U. S. C. § 17.

Division of Com-  
mission, designations.

Assignment of Com-  
missioners.

Temporary service.

Assignment of work.



49 Stat. 548.  
49 U. S. C. Supp. V,  
§ 305.  
Post, p. 922.

#### Boards.

Employees eligible  
for designation.

Basis of assign-  
ments.

Conduct of proceed-  
ings.

Official seal.

Quorum.

Hearings.

Powers of division,  
individual Commis-  
sioner, or board.

required to be referred to joint boards by section 205, and except functions vested in the Commission under this section), or any matter which shall have been or may be referred to it by Congress or by either branch thereof, be assigned or referred to any division, to an individual Commissioner, or to a board to be composed of three or more eligible employees of the Commission (hereinafter in this section called a 'board') to be designated by such order, for action thereon, and the Commission may by order at any time amend, modify, supplement, or rescind any such assignment or reference. The following classes of employees shall be eligible for designation by the Commission to serve on such boards: examiners, directors or assistant directors of bureaus, chiefs of sections, and attorneys. The assignment or reference, to divisions, of work, business, or functions relating to the lawfulness of rates, fares, or charges shall be made according to the character of regulation to be exercised and not according to the kind or class of the carriers involved or to the form or mode of transportation in which such carriers may be engaged. When an individual Commissioner, or any employee, is unable to act upon any matter so assigned or referred because of absence or other cause, the Chairman of the Commission may designate another Commissioner or employee, as the case may be, to serve temporarily until the Commission otherwise orders.

"(3) The Commission shall conduct its proceedings under any provision of law in such manner as will best conduce to the proper dispatch of business and to the ends of justice. The Commission shall have an official seal, which shall be judicially noticed. Any member of the Commission, the Secretary of the Commission, or any member of a board may administer oaths and affirmations and any member of the Commission or the Secretary of the Commission (or any member of a board in connection with the performance of any work, business, or functions referred under this section to a board upon which he serves) may sign subpoenas. A majority of the Commission, of a division, or of a board shall constitute a quorum for the transaction of business. The Commission may, from time to time, make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, or before any division, individual Commissioner, or board, including forms of notices and the service thereof, which shall conform, as nearly as may be, to those in use in the courts of the United States. Any party may appear before the Commission or any division, individual Commissioner, or board and be heard in person or by attorney. Every vote and official act of the Commission, or of any division, individual Commissioner, or board, shall be entered of record, and such record shall be made public upon the request of any party interested. All hearings before the Commission, a division, individual Commissioner, or board shall be public upon the request of any party interested. No Commissioner or employee shall participate in any hearing or proceeding in which he shall have any pecuniary interest.

"(4) A division, an individual Commissioner, or a board shall have authority to hear and determine, order, certify, report, or otherwise act as to any work, business, or functions assigned or referred thereto under the provisions of this section, and with respect thereto shall have all the jurisdiction and powers conferred by law upon the Commission, and be subject to the same duties and obligations. The secretary and seal of the Commission shall be the secretary and seal of each division, individual Commissioner, or board. Except as otherwise provided in this section, any order, decision, or requirement of a division, an individual Commissioner, or a board, with respect to any matter so assigned or referred, shall have the same force and effect, and may be made and evidenced in the same manner as if made or taken by the Commission.

"(5) Any finding, report, or requirement of an individual Commissioner or board, with respect to any matter so assigned or referred involving the taking of testimony at a public hearing, shall be accompanied by a statement in writing of the reasons therefor, together with a recommended order, which shall be filed with the Commission. Copies thereof shall be served upon interested parties (including, in proceedings under part II, persons specified in section 205 (e)), who may file exceptions thereto, but if within twenty days after service upon such persons, or within such further period as the Commission or a duly designated division thereof may authorize, no exceptions shall have been filed, such recommended order shall become the order of the Commission and become effective unless within such period the order shall have been stayed or postponed by the Commission or by a duly designated division thereof. The Commission, or a duly designated division thereof, upon its own motion may, and where exceptions are filed it shall, reconsider the matter either upon the same record or after further hearing, and such recommended order shall thereupon be stayed or postponed pending final determination thereof.

"(6) After a decision, order, or requirement shall have been made by the Commission, a division, an individual Commissioner, or a board, or after an order recommended by an individual Commissioner or a board shall have become the order of the Commission as provided in paragraph (5), any party thereto may at any time, subject to such limitations as may be established by the Commission as hereinafter authorized, make application for rehearing, reargument, or reconsideration of the same, or of any matter determined therein. Such applications shall be governed by such general rules as the Commission may establish. Any such application, if the decision, order, or requirement was made by the Commission, shall be considered and acted upon by the Commission. If the decision, order, or requirement was made by a division, an individual Commissioner, or a board, such application shall be considered and acted upon by the Commission or referred to an appropriate appellate division for consideration and action. Rehearing, reargument, or reconsideration may be granted if sufficient reason therefor be made to appear; but the Commission may, from time to time, make or amend general rules or orders establishing limitations upon the right to apply for rehearing, reargument, or reconsideration of a decision, order, or requirement of the Commission or of a division so as to confine such right to proceedings, or classes of proceedings, involving issues of general transportation importance. Notwithstanding the foregoing provisions of this paragraph, any application for rehearing, reargument, or reconsideration of a matter assigned or referred to an individual Commissioner or a board, under the provisions of paragraph (2), if such application shall have been filed within twenty days after the recommended order in the proceeding shall have become the order of the Commission as provided in paragraph (5), and if such matter shall not have been reconsidered or reheard as provided in such paragraph, shall be referred to an appropriate appellate division of the Commission and such division shall reconsider the matter either upon the same record or after a further hearing.

"(7) If after rehearing, reargument, or reconsideration of a decision, order, or requirement of a division, an individual Commissioner, or board it shall appear that the original decision, order, or requirement is in any respect unjust or unwarranted, the Commission or appellate division may reverse, change, or modify the same accordingly. Any decision, order, or requirement made after rehearing, reargument, or reconsideration, reversing, changing, or modifying the original determination shall be subject to the same provisions with respect to rehearing, reargument, or reconsideration as an original order.

Taking of testimony.

Service of order.  
Post, pp. 919, 922.

When order effective.

Reconsideration where exceptions filed.

Application for rehearing.

Rules.

Appeal.

Reversal of decision.

Postponement of order pending decision.

"(8) Where application for rehearing, reargument, or reconsideration of a decision, order, or requirement of a division, an individual Commissioner, or board is made in accordance with the provisions of this section and the rules and regulations of the Commission, and the decision, order, or requirement has not yet become effective, the decision, order, or requirement shall be stayed or postponed pending disposition of the matter by the Commission or appellate division; but otherwise the making of such an application shall not excuse any person from complying with or obeying the decision, order, or requirement, or operate to stay or postpone the enforcement thereof, without the special order of the Commission.

Suits to enforce, etc., orders.

"(9) When an application for rehearing, reargument, or reconsideration of any decision, order, or requirement of a division, an individual Commissioner, or a board with respect to any matter assigned or referred to him or it shall have been made and shall have been denied, or after rehearing, reargument, or reconsideration otherwise disposed of, by the Commission or an appellate division, a suit to enforce, enjoin, suspend, or set aside such decision, order, or requirement, in whole or in part, may be brought in a court of the United States under those provisions of law applicable in the case of suits to enforce, enjoin, suspend, or set aside orders of the Commission, but not otherwise.

Hearings on matters respecting motor carriers.  
*Post*, p. 919.

"(10) Any matter arising in the administration of part II of this Act as to which a hearing is to be held may be referred to an examiner of the Commission, for action thereon, subject to the conditions and limitations provided in this section in the case of reference of work, business or functions, as to which a hearing is to be held, to an individual Commissioner or board.

Intervention allowed.

"(11) Representatives of employees of a carrier, duly designated as such, may intervene and be heard in any proceeding arising under this Act affecting such employees.

Admission to practice.

"(12) The Commission is authorized to promulgate reasonable rules and regulations relating to admission to practice before it, and is authorized to impose a reasonable fee for such admission, and such fees shall be covered into the Treasury of the United States as miscellaneous receipts."

#### AMENDMENTS TO SECTION 20

41 Stat. 493.  
49 U. S. C. § 20.  
*Ante*, p. 899.

SEC. 13. (a) Paragraphs (1) to (8), inclusive, of section 20 of the Interstate Commerce Act, as amended (which relate to accounts, records, reports, etc., of carriers subject to part I), are amended to read as follows:

Reports from carriers and lessors.

"Sec. 20. (1) The Commission is hereby authorized to require annual, periodical, or special reports from carriers (as defined in this section) and from lessors (as defined in this section), to prescribe the manner and form in which such reports shall be made, and to require from such carriers and lessors specific and full, true, and correct answers to all questions upon which the Commission may deem information to be necessary, classifying such carriers and lessors as it may deem proper for any of these purposes. Such annual reports shall give an account of the affairs of the carrier or lessor in such form and detail as may be prescribed by the Commission.

Information required.

"(2) Said annual reports shall contain all the required information for the period of twelve months ending on the 31st day of December in each year, unless the Commission shall specify a different date, and shall be made out under oath and filed with the Commission at its office in Washington within three months after the close of the year for which the report is made, unless additional time be granted in any case by the Commission. Such periodical or special reports

as may be required by the Commission under paragraph (1) hereof, shall also be under oath whenever the Commission so requires.

“(3) The Commission may, in its discretion, for the purpose of enabling it the better to carry out the purposes of this part, prescribe a uniform system of accounts applicable to any class of carriers subject thereto, and a period of time within which such class shall have such uniform system of accounts, and the manner in which such accounts shall be kept.

Uniform system of accounts.

“(4) The Commission shall, as soon as practicable, prescribe for carriers the classes of property for which depreciation charges may properly be included under operating expenses, and the rate or rates of depreciation which shall be charged with respect to each of such classes of property, classifying the carriers as it may deem proper for this purpose. The Commission may, when it deems necessary, modify the classes and rates so prescribed. When the Commission shall have exercised its authority under the foregoing provisions of this paragraph, carriers shall not charge to operating expenses any depreciation charges on classes of property other than those prescribed by the Commission, or charge with respect to any class of property a rate of depreciation other than that prescribed therefor by the Commission, and no such carrier shall include under operating expenses any depreciation charge in any form whatsoever other than as prescribed by the Commission.

Depreciation charges; rates.

Modifications.

“(5) The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers and their lessors, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys, and it shall be unlawful for such carriers or lessors to keep any accounts, records, and memoranda contrary to any rules, regulations, or orders of the Commission with respect thereto. The Commission or any duly authorized special agent, accountant, or examiner thereof shall at all times have authority to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents, of such carriers and lessors, and such accounts, books, records, memoranda, correspondence, and other documents, of any person controlling, controlled by, or under common control with any such carrier, as the Commission deems relevant to such person's relation to or transactions with such carrier. The Commission or its duly authorized special agents, accountants, or examiners shall at all times have access to all lands, buildings, or equipment of such carriers or lessors, and shall have authority under its order to inspect and examine any and all such lands, buildings, and equipment. Such carriers, lessors, and other persons shall submit their accounts, books, records, memoranda, correspondence, and other documents for the inspection and copying authorized by this paragraph, and such carriers and lessors shall submit their lands, buildings, and equipment to inspection and examination, to any duly authorized special agent, accountant, or examiner of the Commission, upon demand and the display of proper credentials.

Forms of accounts, records, and memoranda.

Inspection and examination of accounts, lands, equipment, etc.

“(6) The Commission or any duly authorized special agent, accountant, or examiner thereof shall at all times have authority to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents, of persons which furnish cars or protective service against heat or cold to or on behalf of any carrier by railroad or express company subject to this part: *Provided, however,* That such authority shall be limited to accounts, books, records, memoranda, correspondence, or other documents which pertain or relate to the cars or protective service so furnished. The Commission shall further have authority, in its discretion, to prescribe the forms of any or all accounts, records, and memoranda which it is authorized by this

Inspection of accounts on heat and cold service.

*Provided.*  
Authority limited.

Forms.

Submission of accounts or other documents.

Failure to keep or submit proper accounts, etc.

Penalty.

False entries, destruction of records, etc.

Penalty.

*Proviso.*  
Preservation of records; destruction.

Failure to report on cars or protective service.

Penalty.

Failure to permit examination of equipment.

Penalty.

paragraph to inspect and copy, and to require the persons furnishing such cars or protective service, as aforesaid, to submit such reports and specific and full, true, and correct answers to such questions, relative to such cars or service, as the Commission may deem necessary. Persons furnishing such cars or protective service shall submit their accounts, books, records, memoranda, correspondence, or other documents, to the extent above provided, for inspection or copying to any duly authorized special agent, accountant, or examiner of the Commission upon demand and the display of proper credentials.

"(7) (a) In case of failure or refusal on the part of any carrier, lessor, or other person to keep any accounts, records, and memoranda in the form and manner prescribed, under authority of this section, by the Commission, or to submit any accounts, books, records, memoranda, correspondence, or other documents to the Commission or any of its authorized agents, accountants, or examiners for inspection or copying, as required under this section, such carrier, lessor, or person shall forfeit to the United States not to exceed \$500 for each such offense and for each day during which such failure or refusal continues.

"(b) Any person who shall knowingly and willfully make, cause to be made, or participate in the making of, any false entry in any annual or other report required under this section to be filed, or in the accounts of any book of accounts or in any records or memoranda kept by a carrier, or required under this section to be kept by a lessor or other person, or who shall knowingly and willfully destroy, mutilate, alter, or by any other means or device falsify the record of any such accounts, records, or memoranda, or who shall knowingly and willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the carrier, lessor, or person, or shall knowingly and willfully keep any accounts, records, or memoranda contrary to the rules, regulations, or orders of the Commission with respect thereto, or shall knowingly or willfully file with the Commission any false report or other document, shall be deemed guilty of a misdemeanor and shall be subject, upon conviction in any court of the United States of competent jurisdiction to a fine of not more than five thousand dollars or imprisonment for not more than two years, or both such fine and imprisonment: *Provided*, That the Commission may in its discretion issue orders specifying such operating, accounting, or financial papers, records, books, blanks, tickets, stubs, correspondence, or documents of such carriers, lessors, or other persons as may, after a reasonable time, be destroyed, and prescribing the length of time the same shall be preserved.

"(c) Any carrier or lessor, or person furnishing cars or protective service, or any officer, agent, employee, or representative thereof, who shall fail to make and file an annual or other report with the Commission within the time fixed by the Commission, or to make specific and full, true, and correct answer to any question within thirty days from the time it is lawfully required by the Commission so to do, shall forfeit to the United States the sum of one hundred dollars for each and every day it shall continue to be in default with respect thereto.

"(d) In case of failure or refusal on the part of any carrier or lessor to accord to the Commission or its duly authorized special agents, accountants, or examiners, access to, and opportunity for the inspection and examination of, any lands, buildings, or equipment of said carrier or lessor, as provided in this section, such carrier or lessor shall forfeit to the United States the sum of one hundred dollars for each day during which such failure or refusal continues.

"(e) All forfeitures authorized in this paragraph (7) shall be recovered in the manner provided for the recovery of forfeitures under the provisions of this part.

Recovery of forfeitures.

"(f) Any special agent, accountant, or examiner who knowingly and willfully divulges any fact or information which may come to his knowledge during the course of any examination or inspection made under authority of this section, except insofar as he may be directed by the Commission or by a court or judge thereof, shall be guilty of a misdemeanor and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not more than \$500 or imprisonment for not exceeding six months, or both.

Examiner, etc., divulging information.

Penalty.

"(8) As used in this section the words 'keep' and 'kept' shall be construed to mean made, prepared, or compiled, as well as retained; the term 'carrier' means a common carrier subject to this part, and includes a receiver or trustee of such carrier; and the term 'lessor' means a person owning a railroad, a water line, or a pipe line, leased to and operated by a common carrier subject to this part, and includes a receiver or trustee of such lessor."

"Keep" and "kept."

"Carrier."

"Lessor."

(b) Paragraph (11) of such section 20 (which relates to liability of carriers for loss of property), is amended by striking out the first proviso contained therein and inserting in lieu thereof the following: "Provided, That if the loss, damage, or injury occurs while the property is in the custody of a carrier by water the liability of such carrier shall be determined by the bill of lading of the carrier by water and by and under the laws and regulations applicable to transportation by water, and the liability of the initial or delivering carrier shall be the same as that of such carrier by water."

41 Stat. 494.  
49 U. S. C. § 20 (11).

Responsibility for losses.

#### AMENDMENTS TO SECTIONS 25, 26, AND 27

SEC. 14. (a) Section 25 of the Interstate Commerce Act, as amended, is hereby repealed.

41 Stat. 497.  
49 U. S. C. § 25;  
Supp. V, § 25.  
41 Stat. 498.  
49 U. S. C. § 26;  
Supp. V, § 26.

(b) Section 26 of the Interstate Commerce Act, as amended, is amended by striking out "26" and inserting in lieu thereof "25".

(c) Section 27 of the Interstate Commerce Act, as amended, is amended to read as follows:

41 Stat. 499.  
49 U. S. C. § 27.

"SEC. 26. This part may be cited as part I of the Interstate Commerce Act."

Part I of the Interstate Commerce Act.

#### SHORT TITLE FOR PART II

SEC. 15. Section 201 of the Interstate Commerce Act, as amended, is amended to read as follows:

49 Stat. 543.  
49 U. S. C., Supp. V, § 301.

#### "SHORT TITLE

"SEC. 201. This part may be cited as part II of the Interstate Commerce Act."

Part II of the Interstate Commerce Act.

#### REFERENCES TO POLICY DECLARED IN PART II

SEC. 16. Part II of the Interstate Commerce Act, as amended, is amended by striking out the following wherever appearing therein: "the policy declared in section 202 (a) of this part", and "the policy of Congress enunciated in section 202", and by inserting in lieu thereof the following: "the national transportation policy declared in this Act".

49 Stat. 543.  
49 U. S. C., Supp. V, ch. 8.

Post, p. 920.

## AMENDMENTS TO SECTION 202

49 Stat. 543.  
49 U. S. C., Supp. V,  
§ 302.

## Amendments.

SEC. 17. (a) Section 202 of the Interstate Commerce Act, as amended (which relates to the scope of the application of part II), is amended—

(1) by striking out the heading thereof, "DECLARATION OF POLICY AND DELEGATION OF JURISDICTION", and inserting in lieu thereof a new heading as follows: "APPLICATION OF PROVISIONS"; and

(2) by repealing subsection (a) of such section, by striking out "(b)" and inserting in lieu thereof "(a)", and by striking out "(c)" and inserting in lieu thereof "(b)".

(b) Such section 202 is amended by adding at the end thereof a new subsection as follows:

Inapplicable provisions.

"(c) Notwithstanding any provision of this section or of section 203, the provisions of this part shall not apply—

*Ante*, p. 899; *post*, p. 929.

"(1) to transportation by motor vehicle by a carrier by railroad subject to part I or by a water carrier subject to part III, incidental to transportation subject to such parts, in the performance within terminal areas of transfer, collection, or delivery services; but such transportation shall be considered to be and shall be regulated as transportation subject to part I when performed by such carrier by railroad, and transportation subject to part III when performed by such water carrier.

"(2) to transportation by motor vehicle by any person (whether as agent or under a contractual arrangement) for a common carrier by railroad subject to part I, an express company subject to part I, a motor carrier subject to this part, or a water carrier subject to part III, in the performance within terminal areas of transfer, collection, or delivery services; but such transportation shall be considered to be performed by such carrier or express company as part of, and shall be regulated in the same manner as, the transportation by railroad, express, motor vehicle, or water to which such services are incidental."

## AMENDMENTS TO SECTION 203

49 Stat. 544.  
49 U. S. C., Supp. V,  
§ 303 (a) (14), (15).  
Definitions.

"Common carrier by motor vehicle."

SEC. 18. (a) Paragraphs (14) and (15) of subsection (a) of section 203 of the Interstate Commerce Act, as amended, are amended to read as follows:

"(14) The term 'common carrier by motor vehicle' means any person which holds itself out to the general public to engage in the transportation by motor vehicle in interstate or foreign commerce of passengers or property or any class or classes thereof for compensation, whether over regular or irregular routes, except transportation by motor vehicle by an express company to the extent that such transportation has heretofore been subject to part I, to which extent such transportation shall continue to be considered to be and shall be regulated as transportation subject to part I.

*Ante*, p. 899.

"Contract carrier by motor vehicle."

"(15) The term 'contract carrier by motor vehicle' means any person which, under individual contracts or agreements, engages in the transportation (other than transportation referred to in paragraph (14) and the exception therein) by motor vehicle of passengers or property in interstate or foreign commerce for compensation."

(b) Section 203 of the Interstate Commerce Act, as amended, is further amended—

49 Stat. 544.  
49 U. S. C., Supp. V,  
§ 303 (a) (13).

(1) by striking out the period at the end of paragraph 13 of subsection (a) and substituting in lieu thereof a comma and the following: "or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service."

(2) by striking out clause (5) of subsection (b) of said section.

(3) by amending clause (4a) of such subsection (b) to read as follows: "(4a) motor vehicles controlled and operated by any farmer when used in the transportation of his agricultural commodities and products thereof, or in the transportation of supplies to his farm; or".

49 U. S. C., Supp. V,  
§ 303 (b) (5).  
49 U. S. C., Supp. V,  
§ 303 (b) (4a).

(4) by amending clause (4b) of such subsection (b) to read as follows: "(5) motor vehicles controlled and operated by a cooperative association as defined in the Agricultural Marketing Act, approved June 15, 1929, as amended, or by a federation of such cooperative associations, if such federation possesses no greater powers or purposes than cooperative associations so defined; or".

49 U. S. C., Supp. V,  
§ 303 (b) (4b).

46 Stat. 18,  
12 U. S. C. § 1141j.

(5) by inserting in clause (6) of such subsection (b) the word "ordinary" before the word "livestock".

49 U. S. C., Supp. V,  
§ 303 (b) (6).

(6) by amending clause (9) of subsection (b) to read as follows: "(9) the casual, occasional, or reciprocal transportation of passengers or property by motor vehicle in interstate or foreign commerce for compensation by any person not engaged in transportation by motor vehicle as a regular occupation or business, unless, in the case of transportation of passengers, such transportation is sold or offered for sale, or provided or procured or furnished or arranged for, by a broker, or by any other person who sells or offers for sale transportation furnished by a person lawfully engaged in the transportation of passengers by motor vehicle under a certificate or permit issued under this part or under a pending application for such a certificate or permit."

49 U. S. C., Supp. V,  
§ 303 (b) (9).

#### EXEMPTION OF CERTAIN INTERSTATE AND FOREIGN COMMERCE OPERATIONS OF MOTOR CARRIERS

SEC. 19. Subsection (a) of section 204 of the Interstate Commerce Act, as amended, is amended by adding after subparagraph (4) thereof the following new subparagraph:

49 Stat. 546.  
49 U. S. C., Supp. V,  
§ 304 (a).

"(4a) To determine, upon its own motion, or upon application by a motor carrier, a State board, or any other party in interest, whether the transportation in interstate or foreign commerce performed by any motor carrier or class of motor carriers lawfully engaged in operation solely within a single State is in fact of such nature, character, or quantity as not substantially to affect or impair uniform regulation by the Commission of transportation by motor carriers engaged in interstate or foreign commerce in effectuating the national transportation policy declared in this Act. Upon so finding, the Commission shall issue a certificate of exemption to such motor carrier or class of motor carriers which, during the period such certificate shall remain effective and unrevoked, shall exempt such carrier or class of motor carriers from compliance with the provisions of this part, and shall attach to such certificate such reasonable terms and conditions as the public interest may require. At any time after the issuance of any such certificate of exemption, the Commission may by order revoke all or any part thereof, if it shall find that the transportation in interstate or foreign commerce performed by the carrier or class of carriers designated in such certificate shall be, or shall have become, or is reasonably likely to become, of such nature, character, or quantity as in fact substantially to affect or impair uniform regulation by the Commission of interstate or foreign transportation by motor carriers in effectuating the national transportation policy declared in this Act. Upon revocation of any such certificate, the Commission shall restore to the carrier or carriers affected thereby, without further proceedings, the authority, if any, to operate in interstate or foreign commerce held by such carrier or carriers at

Certain operations  
solely within a single  
State.

Certificate of exemp-  
tion.

Revocation provi-  
sion.

Restoration of au-  
thority to operate in  
interstate, etc., com-  
merce.



Hearings.

Application accom-  
panied by certificate  
of State board, etc.,  
effect.

Exempted motor  
carriers.  
Effect of State regu-  
lation.

Applications here-  
under.

the time the certificate of exemption pertaining to such carrier or carriers became effective. No certificate of exemption shall be denied, and no order of revocation shall be issued, under this subparagraph, except after reasonable opportunity for hearing to interested parties. Where an application is made in good faith for the exemption of a motor carrier under this subparagraph, accompanied by a certificate of a State board of the State in which the operations of such carrier are carried on stating that in the opinion of such board such carrier is entitled to a certificate of exemption under this subparagraph, such carrier shall be exempt from the provisions of this part beginning with the sixtieth day following the making of such application to the Commission unless prior to such time the Commission shall have by order denied such application, and such exemption shall be effective until such time as the Commission, after such sixtieth day, may by order deny such application or may by order revoke all or any part thereof as hereinbefore authorized. In any case where a motor carrier has become exempt from the provisions of this part as provided in this subparagraph, it shall not be considered to be a burden on interstate or foreign commerce for a State to regulate such carrier with respect to the operations covered by such exemption. Applications under this subparagraph shall be made in writing to the Commission, verified under oath, and shall be in such form and contain such information as the Commission shall by regulations require."

#### AMENDMENTS TO SECTIONS 204, 205, AND 206

49 Stat. 547.  
49 U. S. C., Supp. V,  
§ 304 (a) (7).  
Inquiry into busi-  
ness management.

SEC. 20. (a) Paragraph (7) of subsection (a) of section 204 of the Interstate Commerce Act, as amended, is amended to read as follows:

"(7) For purposes of the administration of the provisions of this part, to inquire into the management of the business of motor carriers and brokers, and into the management of the business of persons controlling, controlled by, or under common control with, motor carriers to the extent that the business of such persons is related to the management of the business of one or more motor carriers, and the Commission shall keep itself informed as to the manner and method in which the same are conducted, and may obtain from such carriers and persons such information as the Commission deems necessary to carry out the provisions of this part; and may transmit to Congress from time to time, such recommendations (including recommendations as to additional legislation) as the Commission may deem necessary."

Codes of fair compe-  
tition.  
49 Stat. 547.  
49 U. S. C., Supp. V,  
§ 304 (b).  
Rehearing.

Relettering of sub-  
sections.

Textual changes.

(b) Such section 204 is further amended—

(1) by repealing subsection (b) thereof (which relates to codes of fair competition under the National Industrial Recovery Act);

(2) by repealing subsection (e) thereof (which relates to rehearing by the Commission on matters arising under part II);

(3) by relettering subsections (c), (d), and (f) as (b), (c), and (d), respectively; and

(4) by striking out in subsection (a) (3) thereof "204 (d) and (e)" and inserting in lieu thereof "204 (c)".

(c) Section 205 of such Act, as amended, is amended—

(1) by repealing subsection (a) thereof (which relates to procedure in connection with recommended orders under part II);

(2) by striking out in the remaining subsections thereof the letters "(b)", "(c)", "(d)", "(e)", "(f)", "(g)", "(h)", "(i)", "(j)", and "(k)", and inserting in lieu thereof "(a)", "(b)", "(c)", "(d)", "(e)", "(f)", "(g)", "(h)", "(i)", and "(j)", respectively;

49 Stat. 548.  
49 U. S. C., Supp. V,  
§ 305.

(3) by striking out in the new subsection (a) thereof the words "paragraph (a) of this section" in the first proviso and substituting in lieu thereof the following: "section 17";

*Ante*, p. 922.

(4) by striking out in the new subsection (a) thereof the words "this section" in the third proviso, and substituting in lieu thereof the following: "section 17";

(5) by striking out in the new subsection (b) thereof the words "paragraph (a) of this section" in the second sentence and substituting in lieu thereof the following: "section 17".

*Ante*, p. 922.

(d) The new subsection (b) of such section 205 (which relates to the creation, procedure, and powers of joint boards), is amended by inserting after the eighth sentence thereof a new sentence as follows: "The failure of a duly appointed member of a joint board to participate in any hearing on a matter referred to such joint board, after notice thereof, shall be considered to constitute, as to the matter referred, a waiver of action on the part of the State from which such member was appointed."

Joint boards.

(e) Subsection (a) of section 206 of such Act, as amended (which relates to the issuance of certificates to common carriers by motor vehicle), is amended by inserting after the words "during the season ordinarily covered by its operation", which appear in the first sentence of such subsection, the following: "and has so operated since that time".

Issuance of certificates to common carriers by motor vehicle.

49 Stat. 551.  
49 U. S. C., Supp. V, § 306 (a).

#### AMENDMENTS TO SECTIONS 210, 210a, AND 212; REPEAL OF SECTION 213

SEC. 21. (a) Section 210 of the Interstate Commerce Act, as amended, is amended to read as follows:

49 Stat. 554.  
49 U. S. C., Supp. V, § 310.

#### "DUAL OPERATIONS"

"SEC. 210. Unless, for good cause shown, the Commission shall find, or shall have found, that both a certificate and a permit may be so held consistently with the public interest and with the national transportation policy declared in this Act—

Operations under certificate and permit.

"(1) no person, or any person controlling, controlled by, or under common control with such person, shall hold a certificate as a common carrier authorizing operation for the transportation of property by motor vehicle over a route or within a territory, if such person, or any such controlling person, controlled person, or person under common control, holds a permit as a contract carrier authorizing operation for the transportation of property by motor vehicle over the same route or within the same territory; and

"(2) no person, or any person controlling, controlled by, or under common control with such person, shall hold a permit as a contract carrier authorizing operation for the transportation of property by motor vehicle over a route or within a territory, if such person, or any such controlling person, controlled person, or person under common control, holds a certificate as a common carrier authorizing operation for the transportation of property by motor vehicle over the same route or within the same territory."

(b) Subsection (b) of section 210a of such Act, as amended (which relates to temporary operation of motor carrier properties pending action on application for consolidation, merger, and so forth), is amended by striking out "as contemplated in section 213 (a) of this part,".

Temporary operation authority.

52 Stat. 1238.  
49 U. S. C., Supp. V, § 310 (a).

Textual changes.  
49 Stat. 555.  
49 U. S. C., Supp. V,  
§ 312.

49 Stat. 555.  
49 U. S. C., Supp. V,  
§ 312 (b).

Repeal.  
49 Stat. 555.  
49 U. S. C., Supp. V,  
§ 313.

(c) Subsection (a) of section 212 of such Act, as amended (which relates to suspension, change, revocation, and transfer of certificates, permits, and licenses), is amended by striking out in the first proviso "section 204 (d)" and inserting in lieu thereof "section 204 (c)".

(d) Subsection (b) of section 212 of such Act, as amended, is amended by striking out "section 213" and inserting in lieu thereof "section 5".

(e) Section 213 of such Act, as amended (which relates to consolidations, mergers, and acquisitions of control in case of motor carriers), is hereby repealed.

#### AMENDMENTS TO SECTIONS 214, 216, AND 217

Issuance of securities.

49 Stat. 557.  
49 U. S. C., Supp. V,  
§ 314.

Discriminations.  
49 Stat. 558.  
49 U. S. C., Supp. V,  
§ 316 (d).

*Proviso.*  
Construction of sub-  
section, restriction.

Investigation of new  
rates; suspension.  
49 Stat. 559.  
49 U. S. C., Supp. V,  
§ 316 (g).

52 Stat. 1240.  
49 U. S. C., Supp. V,  
§ 316 (g).

49 Stat. 560.  
49 U. S. C., Supp. V,  
§ 316 (i).  
Rate-making policy.

SEC. 22. (a) Section 214 of the Interstate Commerce Act, as amended, is amended by striking out "entered under section 213 (a) (1)" and inserting in lieu thereof "of the Commission".

(b) Subsection (d) of section 216 of such Act, as amended (which prohibits the giving of undue preferences or advantages by common carriers by motor vehicle), is amended to read as follows:

"(d) All charges made for any service rendered or to be rendered by any common carrier by motor vehicle engaged in interstate or foreign commerce in the transportation of passengers or property as aforesaid or in connection therewith shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof, is prohibited and declared to be unlawful. It shall be unlawful for any common carrier by motor vehicle engaged in interstate or foreign commerce to make, give, or cause any undue or unreasonable preference or advantage to any particular person, port, gateway, locality, region, district, territory, or description of traffic, in any respect whatsoever; or to subject any particular person, port, gateway, locality, region, district, territory, or description of traffic to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever: *Provided, however,* That this subsection shall not be construed to apply to discriminations, prejudice, or disadvantage to the traffic of any other carrier of whatever description."

(c) Subsection (g) of such section 216 (which relates to investigations by the Commission as to lawfulness of proposed new rates involving common carriers by motor vehicle, and the suspension of such rates), is amended—

(1) by inserting before the words "suspend the operation of such schedule", in the first sentence thereof, the words "from time to time".

(2) by striking out in the first sentence thereof the words "for a period of ninety days and if the proceeding has not been concluded and a final order made within such period the Commission may, from time to time, extend the period of suspension by order, but not for a longer period in the aggregate than one hundred and eighty days" and substituting in lieu thereof the words "but not for a longer period than seven months".

(3) by amending the second sentence in the proviso therein to read as follows: "At any hearing involving a change in a rate, fare, charge, or classification, or in a rule, regulation, or practice, the burden of proof shall be upon the carrier to show that the proposed changed rate, fare, charge, classification, rule, regulation, or practice is just and reasonable."

(d) Subsection (i) of such section 216 (which contains the rule of rate making for part II), is amended to read as follows:

"(i) In the exercise of its power to prescribe just and reasonable rates, fares, and charges for the transportation of passengers or property by common carriers by motor vehicle, and classifications,

regulations, and practices relating thereto, the Commission shall give due consideration, among other factors, to the inherent advantages of transportation by such carriers; to the effect of rates upon the movement of traffic by the carrier or carriers for which the rates are prescribed; to the need, in the public interest, of adequate and efficient transportation service by such carriers at the lowest cost consistent with the furnishing of such service; and to the need of revenues sufficient to enable such carriers, under honest, economical, and efficient management, to provide such service."

(e) The proviso in subsection (b) of section 217 of the Interstate Commerce Act, as amended, is amended by striking out "22 (1)" and inserting in lieu thereof "22".

49 Stat. 551.  
49 U. S. C., Supp. V,  
§ 317 (b).

#### AMENDMENTS TO SECTION 218

SEC. 23. (a) Subsection (a) of section 218 of the Interstate Commerce Act, as amended, is amended—

(1) by striking out the first sentence thereof (which relates to the duty of contract carriers by motor vehicle to file schedules and contracts including minimum rates, etc.) and substituting in lieu thereof two new sentences as follows: "It shall be the duty of every contract carrier by motor vehicle to establish and observe reasonable minimum rates and charges for any service rendered or to be rendered in the transportation of passengers or property or in connection therewith, and to establish and observe reasonable regulations and practices to be applied in connection with said reasonable minimum rates, fares, and charges. It shall be the duty of every contract carrier by motor vehicle to file with the Commission, publish, and keep open for public inspection, in the form and manner prescribed by the Commission, schedules containing the minimum rates or charges of such carrier actually maintained and charged for the transportation of passengers or property in interstate or foreign commerce, and any rule, regulation, or practice affecting such rates or charges and the value of the service thereunder."

49 Stat. 551.  
49 U. S. C., Supp. V,  
§ 318 (a).  
Schedules and contracts.

(2) by striking out, in the third sentence thereof, the words "or copies of contracts".

(b) Subsection (b) of such section 218 (which relates to the Commission's authority to prescribe minimum charges of contract carriers by motor vehicle), is amended to read as follows:

49 Stat. 552.  
49 U. S. C., Supp. V,  
§ 318 (b).

"(b) Whenever, after hearing, upon complaint or upon its own initiative, the Commission finds that any minimum rate or charge of any contract carrier by motor vehicle, or any rule, regulation, or practice of any such carrier affecting such minimum rate or charge, or the value of the service thereunder, for the transportation of passengers or property or in connection therewith, contravenes the national transportation policy declared in this Act, or is in contravention of any provision of this part, the Commission may prescribe such just and reasonable minimum rate or charge, or such rule, regulation, or practice as in its judgment may be necessary or desirable in the public interest and to promote such policy and will not be in contravention of any provision of this part. Such minimum rate or charge, or such rule, regulation, or practice, so prescribed by the Commission, shall give no advantage or preference to any such carrier in competition with any common carrier by motor vehicle subject to this part, which the Commission may find to be undue or inconsistent with the public interest and the national transportation policy declared in this Act, and the Commission shall give due consideration to the cost of the services rendered by such carriers, and to the effect of such minimum rate or charge, or such rule, regulation, or practice, upon the movement of traffic by such carriers. All com-

Revision of minimum rates.

Undue preference.

Complaints.

plaints shall state fully the facts complained of and the reasons for such complaint and shall be made under oath."

49 Stat. 562.  
49 U. S. C., Supp. V,  
§ 318 (c).

(c) Subsection (c) of such section 218 (which relates to inquiries as to the lawfulness of reductions in charges of contract carriers by motor vehicle, and suspension of such charges) is amended to read as follows:

Modifications of  
schedules.

Hearing.

"(c) Whenever there shall be filed with the Commission by any such contract carrier any schedule stating a charge for a new service or a reduced charge directly, or by means of any rule, regulation, or practice, for the transportation of passengers or property in interstate or foreign commerce, the Commission is hereby authorized and empowered upon complaint of interested parties or upon its own initiative at once and, if it so orders, without answer or other formal pleading by the interested party, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such charge, or such rule, regulation, or practice, and pending such hearing and the decision thereon the Commission, by filing with such schedule and delivering to the carrier affected thereby a statement in writing of its reasons for such suspension, may from time to time suspend the operation of such schedule and defer the use of such charge, or such rule, regulation, or practice, but not for a longer period than seven months beyond the time when it would otherwise go into effect; and after hearing, whether completed before or after the charge, or rule, regulation, or practice goes into effect, the Commission may make such order with reference thereto as would be proper in a proceeding instituted after it had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed change in any charge or rule, regulation, or practice shall go into effect at the end of such period: *Provided*, That this paragraph shall not apply to any initial schedule or schedules filed on or before July 31, 1938, by any such carrier in bona fide operation when this section takes effect. The rule as to burden of proof specified in section 216 (g) shall apply to this paragraph."

Temporary suspen-  
sion.

*Proviso.*  
Exception.

49 Stat. 559.  
49 U. S. C., Supp. V,  
§ 316 (g).  
*Ante*, p. 924.

#### ACCOUNTS, RECORDS, AND REPORTS OF MOTOR CARRIERS

SEC. 24. Section 220 of the Interstate Commerce Act, as amended, is amended to read as follows:

"SEC. 220. (a) The Commission is hereby authorized to require annual, periodical, or special reports from all motor carriers, brokers, and lessors (as defined in this section), to prescribe the manner and form in which such reports shall be made, and to require from such carriers, brokers, and lessors specific and full, true, and correct answers to all questions upon which the Commission may deem information to be necessary. Such annual reports shall give an account of the affairs of the carrier, broker, or lessor in such form and detail as may be prescribed by the Commission. The Commission may also require any motor carrier or broker to file with it a true copy of any contract, agreement, or arrangement between such carrier and any other carrier or person in relation to any traffic affected by the provisions of this part. The Commission shall not, however, make public any contract, agreement, or arrangement between a contract carrier by motor vehicle and a shipper, or any of the terms or conditions thereof, except as a part of the record in a formal proceeding where it considers such action consistent with the public interest: *Provided*, That if it appears from an examination of any such contract that it fails to conform to the published schedule of the contract carrier by motor vehicle as required by section 218 (a), the Commission may, in its discretion, make public such of the provisions of the contract as the Commission considers necessary to disclose such failure and the extent thereof.

Filing of contracts,  
etc.

Confidential treat-  
ment accorded.

*Proviso.*  
Failure to conform  
to published schedule.  
*Ante*, p. 925.

49 Stat. 563.  
49 U. S. C., Supp. V,  
§ 320.  
Authority of Com-  
mission.

"(b) Said annual reports shall contain all the required information for the period of twelve months ending on the thirty-first day of December in each year, unless the Commission shall specify a different date, and shall be made out under oath and filed with the Commission at its office in Washington within three months after the close of the year for which the report is made, unless additional time be granted in any case by the Commission. Such periodical or special reports as may be required by the Commission under subsection (a) hereof shall also be under oath, whenever the Commission so requires.

Annual, etc., reports.

"(c) The Commission may prescribe for motor carriers the classes of property for which depreciation charges may properly be included under operating expenses, and the rate or rates of depreciation which shall be charged with respect to each of such classes of property, classifying the carriers as it may deem proper for this purpose. The Commission may, when it deems necessary, modify the classes and rates so prescribed. When the Commission shall have exercised its authority under the foregoing provisions of this subsection, motor carriers shall not charge to operating expenses any depreciation charges on classes of property other than those prescribed by the Commission, or charge with respect to any class of property a rate of depreciation other than that prescribed therefor by the Commission, and no such carrier shall include under operating expenses any depreciation charge in any form whatsoever other than as prescribed by the Commission.

Depreciation charges; rates.

Modification of classes and rates.

"(d) The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by motor carriers, brokers, and lessors, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys; and it shall be unlawful for such carriers, brokers, and lessors to keep any accounts, records, and memoranda contrary to any rules, regulations, or orders of the Commission with respect thereto. The Commission may issue orders specifying such operating, accounting, or financial papers, records, books, blanks, tickets, stubs, correspondence, or documents of motor carriers, brokers, or lessors as may after a reasonable time be destroyed, and prescribing the length of time the same shall be preserved. The Commission or its duly authorized special agents, accountants, or examiners shall at all times have access to and authority, under its order, to inspect and examine any and all lands, buildings, or equipment of motor carriers, brokers, and lessors; and shall have authority to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents of such carriers, brokers, and lessors, and such accounts, books, records, memoranda, correspondence, and other documents of any person controlling, controlled by, or under common control with any such carrier, as the Commission deems relevant to such person's relation to or transactions with such carrier. Motor carriers, brokers, lessors, and persons shall submit their accounts, books, records, memoranda, correspondence, and other documents for the inspection and copying authorized by this paragraph, and motor carriers, brokers, and lessors shall submit their lands, buildings, and equipment for examination and inspection, to any duly authorized special agent, accountant, or examiner of the Commission upon demand and the display of proper credentials.

Forms of accounts, records, and memoranda.

Inspection and examination of lands, equipment, accounts, etc.

"(e) As used in this section, the words 'keep' and 'kept' shall be construed to mean made, prepared, or compiled, as well as retained; the term 'lessor' means a lessor of any right to operate as a motor carrier; and the term 'motor carrier', 'broker', or 'lessor' includes a receiver or trustee of any such motor carrier, broker, or lessor.

"Keep" and "kept."

"Lessor."  
"Motor carrier,"  
"broker," or "lessor."

"(f) No report by any motor carrier of any accident arising in the course of the operations of such carrier, made pursuant to any requirement of the Commission, and no report by the Commission of

Accident reports.

any investigation of any such accident, shall be admitted as evidence, or used for any other purpose, in any suit or action for damages growing out of any matter mentioned in such report or investigation."

#### AMENDMENTS TO SECTIONS 221 AND 222

Service of notice,  
etc.  
49 Stat. 563.  
49 U. S. C., Supp. V,  
§ 321 (a).

SEC. 25. (a) Subsection (a) of section 221 of the Interstate Commerce Act, as amended (which relates to the designation of an agent to receive service, and the making of service), is amended by adding at the end thereof a new sentence as follows: "In proceedings before the Commission involving the lawfulness of rates, fares, charges, classifications, or practices, service of notice upon an attorney in fact of a carrier who has filed a tariff or schedule in behalf of such carrier shall be deemed to be due and sufficient service upon the carrier."

Effective date and  
duration of orders.  
49 Stat. 564.  
49 U. S. C., Supp. V,  
§ 321 (b).

(b) Subsection (b) of such section 221 (which relates to the time of taking effect of orders of the Commission under part II) is amended by inserting after the words "within such reasonable time" a comma and the following: "not less than thirty days."

49 Stat. 565.  
49 U. S. C., Supp. V,  
§ 322 (d).

(c) Subsection (d) of section 222 of such Act, as amended (which imposes penalties for unlawful disclosure of information by a special agent or examiner), is amended to read as follows:

Unlawful disclo-  
sures.

"(d) Any special agent, accountant, or examiner who knowingly and willfully divulges any fact or information which may come to his knowledge during the course of any examination or inspection made under authority of section 220, except as he may be directed by the Commission or by a court or judge thereof, shall be guilty of a misdemeanor and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not more than \$500 or imprisonment for not exceeding six months, or both."

Penalty.

49 Stat. 565.  
49 U. S. C., Supp. V,  
§ 322 (g).

(d) Subsection (g) of such section 222 (which imposes penalties for failure or refusal to make reports, keep accounts, and so forth) is amended to read as follows:

Failure to make re-  
ports, etc.

"(g) Any motor carrier, broker, or other person, or any officer, agent, employee, or representative thereof, who shall willfully fail or refuse to make a report to the Commission as required by this part, or to make specific and full, true, and correct answer to any question within thirty days from the time it is lawfully required by the Commission so to do, or to keep accounts, records, and memoranda in the form and manner prescribed by the Commission, or shall knowingly and willfully falsify, destroy, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and willfully file with the Commission any false report, account, record, or memorandum, or shall knowingly and willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the carrier, or person required under this part to keep the same, or shall knowingly and willfully keep any accounts, records, or memoranda contrary to the rules, regulations, or orders of the Commission with respect thereto, shall be deemed guilty of a misdemeanor and upon conviction thereof be subject for each offense to a fine of not more than \$5,000. As used in this subsection, the words 'keep' and 'kept' shall be construed to mean made, prepared, or compiled, as well as retained."

False reports.

Penalty.

"Keep" and "kept."

#### NEW SECTION RELATING TO ALLOWANCES TO SHIPPERS

49 Stat. 566.

SEC. 26. (a) Part II of the Interstate Commerce Act, as amended, is amended by adding after section 224 the following new section:

#### "ALLOWANCES TO SHIPPERS FOR TRANSPORTATION SERVICES

Allowances to ship-  
pers.

"SEC. 225. If the owner of property transported under this part directly or indirectly renders any service connected with such trans-

portation, or furnishes any instrumentality used therein, the charge and allowance therefor shall be published in tariffs or schedules filed in the manner provided in this part and shall be no more than is just and reasonable; and the Commission may, after hearing on a complaint or on its own initiative, determine what is a reasonable charge as the maximum to be paid by the carrier or carriers for the services so rendered or for the use of the instrumentality so furnished, and fix the same by appropriate order."

(b) Sections 225, 226, and 227 of such Act, as amended, are amended by renumbering such sections as 226, 227, and 228, respectively, and such section renumbered as 228 is further amended by striking out "(a)".

Renumbering, etc., of sections.  
49 Stat. 566.  
49 U. S. C., Supp. V, §§ 325-327.

#### INVESTIGATION OF NEED FOR REGULATING SIZES AND WEIGHT OF MOTOR VEHICLES

SEC. 27. The Interstate Commerce Commission is authorized and directed to expedite the investigation of the need for Federal regulation of the sizes and weight of motor vehicles, authorized by section 226 of the Interstate Commerce Act, as amended, and to report to Congress thereon at the earliest practicable date.

Regulation of sizes and weight of motor vehicles.  
49 Stat. 566.  
49 U. S. C., Supp. V, § 325.

### TITLE II—REGULATION OF WATER CARRIERS IN INTERSTATE AND FOREIGN COMMERCE

#### PART III OF INTERSTATE COMMERCE ACT

SEC. 201. The Interstate Commerce Act, as amended, is further amended by adding after part II thereof the following part III:

#### "PART III

#### "SHORT TITLE

"SEC. 301. This part, divided into sections according to the following table of contents, may be cited as part III of the Interstate Commerce Act:

Part III of the Interstate Commerce Act.

#### "TABLE OF CONTENTS

- Sec. 301. Short title.
- Sec. 302. Definitions.
- Sec. 303. Application of provisions; exemptions.
- Sec. 304. General powers and duties of the Commission.
- Sec. 305. Rates, fares, charges, and practices; through routes.
- Sec. 306. Tariffs and schedules.
- Sec. 307. Commission's authority over rates, and so forth.
- Sec. 308. Reparation awards; limitation of actions.
- Sec. 309. Certificates of public convenience and necessity and permits.
- Sec. 310. Dual operations under certificates and permits.
- Sec. 311. Temporary operations.
- Sec. 312. Transfer of certificates and permits.
- Sec. 313. Accounts, records, and reports.
- Sec. 314. Allowances to shippers for transportation services.
- Sec. 315. Notices, orders, and service of process.
- Sec. 316. Enforcement and procedure.
- Sec. 317. Unlawful acts and penalties.
- Sec. 318. Collection of rates and charges.
- Sec. 319. Employees.
- Sec. 320. Repeals.
- Sec. 321. Transfer of employees, records, property, and appropriations.
- Sec. 322. Existing orders, rules, tariffs, and so forth; pending matters.
- Sec. 323. Separability of provisions.

#### "DEFINITIONS

"SEC. 302. For the purposes of this part—

"(a) The term 'person' includes any individual, firm, copartnership, corporation, company, association, joint stock association, and any trustee, receiver, assignee, or personal representative thereof.

"Person."



- "Commission." " (b) The term 'Commission' means the Interstate Commerce Commission.
- "Water carrier." " (c) The term 'water carrier' means a common carrier by water or a contract carrier by water.
- "Common carrier by water." " (d) The term 'common carrier by water' means any person which holds itself out to the general public to engage in the transportation by water in interstate or foreign commerce of passengers or property or any class or classes thereof for compensation, except transportation by water by an express company subject to part I in the conduct of its express business, which shall be considered to be and shall be regulated as transportation subject to part I.
- Exception.  
*Ante*, p. 899.
- "Contract carrier by water." " (e) The term 'contract carrier by water' means any person which, under individual contracts or agreements, engages in the transportation (other than transportation referred to in paragraph (d) and the exception therein) by water of passengers or property in interstate or foreign commerce for compensation.
- Chartered, etc., vessels.
- The furnishing for compensation (under a charter, lease, or other agreement) of a vessel, to a person other than a carrier subject to this Act, to be used by the person to whom such vessel is furnished in the transportation of its own property, shall be considered to constitute, as to the vessel so furnished, engaging in transportation for compensation by the person furnishing such vessel, within the meaning of the foregoing definition of 'contract carrier by water'. Whenever the Commission, upon its own motion or upon application of any interested party, determines that the application of the preceding sentence to any person or class of persons is not necessary in order to effectuate the national transportation policy declared in this Act, it shall by order exempt such person or class of persons from the provisions of this part for such period of time as may be specified in such order. The Commission may by order revoke any such exemption whenever it shall find that the application of such sentence to the exempted person or class of persons is necessary in order to effectuate such national transportation policy. No such exemption shall be denied or revoked except after reasonable opportunity for hearing.
- Exemption.
- "Vessel" defined.
- " (f) The term 'vessel' means any watercraft or other artificial contrivance of whatever description which is used, or is capable of being, or is intended to be, used as a means of transportation by water.
- "Transportation facility."
- " (g) The term 'transportation facility' includes any vessel, warehouse, wharf, pier, dock, yard, grounds, or any other instrumentality or equipment of any kind, used in or in connection with transportation by water subject to this part.
- "Transportation."
- " (h) The term 'transportation' includes the use of any transportation facility (irrespective of ownership or of any contract, express or implied, for such use), and includes any and all services in or in connection with transportation, including the receipt, delivery, elevation, transfer in transit, refrigeration or icing, ventilation, storage, and handling of property transported or the interchange thereof with any other agency of transportation.
- "Interstate or foreign transportation" or "transportation in interstate or foreign commerce."
- " (i) The term 'interstate or foreign transportation' or 'transportation in interstate or foreign commerce', as used in this part, means transportation of persons or property—
- " (1) wholly by water from a place in a State to a place in any other State, whether or not such transportation takes place wholly in the United States;
- " (2) partly by water and partly by railroad or motor vehicle, from a place in a State to a place in any other State; except that with respect to such transportation taking place partly in the United States and partly outside thereof, such terms shall include transportation by railroad or motor vehicle only insofar

as it takes place within the United States, and shall include transportation by water only insofar as it takes place from a place in the United States to another place in the United States;

"(3) wholly by water, or partly by water and partly by railroad or motor vehicle, from or to a place in the United States to or from a place outside the United States, but only (A) insofar as such transportation by rail or by motor vehicle takes place within the United States, and (B) in the case of a movement to a place outside the United States, only insofar as such transportation by water takes place from any place in the United States to any other place therein prior to transshipment at a place within the United States for movement to a place outside thereof, and, in the case of a movement from a place outside the United States, only insofar as such transportation by water takes place from any place in the United States to any other place therein after transshipment at a place within the United States in a movement from a place outside thereof.

"(j) The term 'United States' means the States of the United States and the District of Columbia.

"(k) The term 'State' means a State of the United States or the District of Columbia.

"(l) The term 'common carrier by railroad' means a common carrier by railroad subject to the provisions of part I.

"(m) The term 'common carrier by motor vehicle' means a common carrier by motor vehicle subject to the provisions of part II.

"United States."

"State."

"Common carrier by railroad."

"Common carrier by motor vehicle."

#### "APPLICATION OF PROVISIONS; EXEMPTIONS

"SEC. 303. (a) In the case of transportation which is subject both to this part and part I, the provisions of part I shall apply only to the extent that part I imposes, with respect to such transportation, requirements not imposed by the provisions of this part.

"(b) Nothing in this part shall apply to the transportation by a water carrier of commodities in bulk when the cargo space of the vessel in which such commodities are transported is being used for the carrying of not more than three such commodities. This subsection shall apply only in the case of commodities in bulk which are (in accordance with the existing custom of the trade in the handling and transportation of such commodities as of June 1, 1939) loaded and carried without wrappers or containers and received and delivered by the carrier without transportation mark or count. For the purposes of this subsection two or more vessels while navigated as a unit shall be considered to be a single vessel. This subsection shall not apply to transportation subject, at the time this part takes effect, to the provisions of the Intercoastal Shipping Act, 1933, as amended.

"(c) Nothing in this part shall apply to transportation by a contract carrier by water of commodities in bulk in a non-ocean-going vessel on a normal voyage during which (1) the cargo space of such vessel is used for the carrying of not more than three such commodities, and (2) such vessel passes within or through waters which are made international for navigation purposes by any treaty to which the United States is a party.

"(d) Nothing in this part shall apply to the transportation by water of liquid cargoes in bulk in tank vessels designed for use exclusively in such service and certified under regulations approved by the Secretary of Commerce pursuant to the provisions of section 4417a of the Revised Statutes (U. S. C., 1934 edition, Supp. IV, title 46, sec. 391a).

Application of provisions.  
*Ante*, p. 899.

Commodities in bulk.

Vessels while navigated as a unit.  
47 Stat. 1425.  
46 U. S. C. §§ 843-848; Supp. V, §§ 844-848.

Non-ocean-going vessel.

International waters.

Tank vessels.

49 Stat. 1889.  
46 U. S. C., Supp. V, § 391a.

Exclusion of certain noncompetitive transportation.

*Ante*, pp. 899, 919.

47 Stat. 1425.  
46 U. S. C. §§ 843-848; Supp. V, §§ 844-848.

Nonapplicability of designated provisions.  
*Ante*, p. 929.

*Ante*, pp. 899, 919.

Transportation within a single harbor.

Contiguous harbors.

Transportation by small craft.

"(e) It is hereby declared to be the policy of Congress to exclude from the provisions of this part, in addition to the transportation otherwise excluded under this section, transportation by contract carriers by water which, by reason of the inherent nature of the commodities transported, their requirement of special equipment, or their shipment in bulk, is not actually and substantially competitive with transportation by any common carrier subject to this part or part I or part II. Upon application of a carrier, made in such manner and form as the Commission may by regulations prescribe, the Commission shall, subject to such reasonable conditions and limitations as the Commission may prescribe, by order exempt from the provisions of this part such of the transportation engaged in by such carrier as it finds necessary to carry out the policy above declared. A carrier (other than a carrier subject, at the time this part takes effect, to the provisions of the Intercoastal Shipping Act, 1933, as amended) making such application prior to January 1, 1941, shall be exempt from the provisions of this part until a final determination has been made upon such application if such carrier or a predecessor in interest was in bona fide operation as a contract carrier by water on January 1, 1940, over the route or routes or between the ports with respect to which application is made and has so operated since that time (or, if engaged in furnishing seasonal service only, was in bona fide operation during the seasonal period, prior to or including such date, for operations of the character in question) except, in either event, for interruptions of service over which such carrier or its predecessor in interest had no control.

"(f) Notwithstanding any provision of this section or of section 302, the provisions of this part shall not apply—

"(1) to transportation by water by a carrier by railroad subject to part I or by a motor carrier subject to part II, incidental to transportation subject to such parts, in the performance within terminal areas of transfer, collection, or delivery services, or in the performance of floatage, car ferry, lighterage, or towage; but such transportation shall be considered to be transportation subject to part I when performed by such carrier by railroad, and transportation subject to part II when performed by such motor carrier.

"(2) to transportation by water by any person (whether as agent or under a contractual arrangement) for a common carrier by railroad subject to part I, an express company subject to part I, a motor carrier subject to part II, or a water carrier subject to this part, in the performance within terminal areas of transfer, collection, or delivery services, or in the performance of floatage, car ferry, lighterage, or towage; but such transportation shall be considered to be performed by such carrier or express company as part of, and shall be regulated in the same manner as, the transportation by railroad, express, motor vehicle, or water to which such services are incidental.

"(g) Except to the extent that the Commission shall from time to time find, and by order declare, that such application is necessary to carry out the national transportation policy declared in this Act, the provisions of this part shall not apply (1) to transportation in interstate commerce by water solely within the limits of a single harbor or between places in contiguous harbors, when such transportation is not a part of a continuous through movement under a common control, management, or arrangement to or from a place without the limits of any such harbor or harbors, or (2) to transportation by small craft of not more than one hundred tons carrying capacity or not more than one hundred indicated horsepower, or to

vessels carrying passengers only and equipped to carry no more than sixteen passengers, or to ferries, or to the movement by water carriers of contractors' equipment employed or to be employed in construction or repair for such water carrier, or to the operation of salvors.

"(h) The Commission shall have the power to determine, upon its own motion or upon application of any party in interest, whether any water carrier is engaged solely in transporting the property of a person which owns all or substantially all of the voting stock of such carrier. Upon so finding the Commission shall issue a certificate of exemption to such carrier, and such carrier shall not be subject to the provisions of this part during the period such certificate shall remain in effect. At any time after the issuance of such certificate the Commission may by order revoke such certificate if it finds that such carrier is no longer entitled to the exemption under the foregoing provisions of this subsection. Upon revocation of any such certificate the Commission shall restore to such carrier, without further proceedings, the authority, if any, to engage in transportation subject to the provisions of this part held by such carrier at the time the certificate of exemption pertaining to such carrier became effective. No certificate of exemption shall be denied and no order of revocation shall be issued, under this subsection, except after reasonable opportunity for hearing.

"(i) In the application of the provisions of this part to any carrier owned or controlled by the United States, no different policy, rule of rate making, system of accounting, or method of determining costs of service, value of property, or rate of return shall be applied than is applied in the case of carriers not so owned or controlled.

"(j) Nothing in this part shall be construed to interfere with the exclusive exercise by each State of the power to regulate intrastate commerce by water carriers within the jurisdiction of such State.

"(k) Nothing in this part shall authorize the Commission to prescribe or regulate any rate, fare, or charge for intrastate transportation, or for any service connected therewith, for the purpose of removing discrimination against interstate commerce or for any other purpose.

"(l) Whenever transportation exempted under the provisions of subsection (g), or by order of the Commission under subsection (e), becomes subject to the provisions of this part, the carrier may continue to engage in such transportation for a period of one hundred and twenty days without a certificate or permit covering such transportation, and, if application for a certificate or permit covering such transportation is made to the Commission within such period, the Commission shall, without further proceedings, issue to the carrier a certificate or permit, whichever is appropriate, authorizing such transportation previously exempted.

#### "GENERAL POWERS AND DUTIES OF THE COMMISSION

"SEC. 304. (a) It shall be the duty of the Commission to administer the provisions of this part, and to that end the Commission shall have authority to make and amend such general or special rules and regulations and to issue such orders as may be necessary to carry out such provisions.

"(b) The Commission shall have authority, for purposes of the administration of the provisions of this part, to inquire into and report on the management of the business of water carriers, and to inquire into and report on the management of the business of persons controlling, controlled by, or under a common control with water carriers, to the extent that the business of such persons is related to the management of

Transportation of owner's, etc., property.

Certificate of exemption.

Revocation.

Carrier under U. S. control.

State regulatory powers.

Intrastate transportation.

Authorization of transportation previously exempted.

General powers and duties of the Commission.

Inquiries and reports on management.

Recommendations  
to Congress.

Classification of  
groups of carriers.

Rules, regulations,  
and requirements.

Undue disadvan-  
tage.

Noncompliance  
with requirements.

the business of one or more such carriers, and the Commission shall keep itself informed as to the manner and method in which the same are conducted. The Commission may obtain from such carriers and persons such information as the Commission deems necessary to carry out the provisions of this part; and may transmit to Congress from time to time, such recommendations (including recommendations as to additional legislation) as the Commission may deem necessary.

"(c) The Commission may establish from time to time such just and reasonable classifications of groups of carriers included in the terms 'common carrier by water', or 'contract carrier by water', as the special nature of the services performed by such carriers shall require; and such just and reasonable rules, regulations, and requirements consistent with the provisions of this part to be observed by the carriers so classified or grouped, as the Commission, after hearing, finds necessary or desirable in the public interest.

"(d) Whenever it shall appear from complaint made to the Commission or otherwise that the rates, fares, regulations, or practices of persons engaged in transportation by water to or from a port or ports of any foreign country in competition with common carriers by water or contract carriers by water, cause undue disadvantage to such carriers by reason of such competition, the Commission may relieve such carriers from the provisions of this part to such extent, and for such time, and in such manner as in its judgment may be necessary to avoid or lessen such undue disadvantage, consistently with the public interest and the national transportation policy declared in this Act.

"(e) Upon complaint in writing to the Commission by any person, or upon its own initiative without complaint, the Commission may investigate whether any water carrier has failed to comply with any provision of this part or with any requirement established pursuant thereto, and if, after notice of and hearing upon any such investigation, the Commission finds that any such carrier has failed to comply with any such provision or requirement, it shall issue an appropriate order to compel such carrier to comply therewith. Whenever the Commission is of opinion that any complaint does not state reasonable grounds for action on its part, it may dismiss such complaint.

#### "RATES, FARES, CHARGES, AND PRACTICES; THROUGH ROUTES

Prescribed require-  
ments.

Rates, tickets, bills  
of lading, etc.

Charges.

Through routes.

"SEC. 305. (a) It shall be the duty of every common carrier by water, with respect to transportation subject to this part which it undertakes or holds itself out to perform, or which it is required by or under authority of this part to perform, to provide and furnish such transportation upon reasonable request therefor, and to establish, observe, and enforce just and reasonable rates, fares, charges, and classifications, and just and reasonable regulations and practices, relating thereto and to the issuance, form, and substance of tickets, receipts, bills of lading, and manifests, the manner and method of presenting, marking, packing, and delivering property for transportation, the carrying of personal, sample, and excess baggage, the facilities for transportation, and all other matters relating to or connected with such transportation in interstate or foreign commerce. All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful.

"(b) It shall be the duty of common carriers by water to establish reasonable through routes with other such carriers and with common carriers by railroad, for the transportation of persons or property, and just and reasonable rates, fares, charges, and classifications appli-

cable thereto, and to provide reasonable facilities for operating such through routes, and to make reasonable rules and regulations with respect to their operation and providing for reasonable compensation to those entitled thereto. Common carriers by water may establish reasonable through routes and rates, fares, charges, and classifications applicable thereto with common carriers by motor vehicle. In the case of joint rates, fares, or charges it shall be the duty of the carriers parties thereto to establish just, reasonable, and equitable divisions thereof, which shall not unduly prefer or prejudice any of such carriers.

Joint rates.

“(c) It shall be unlawful for any common carrier by water to make, give, or cause any undue or unreasonable preference or advantage to any particular person, port, port district, gateway, transit point, locality, region, district, territory, or description of traffic in any respect whatsoever; or to subject any particular person, port, port district, gateway, transit point, locality, region, district, territory, or description of traffic to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever: *Provided*, That this subsection shall not be construed to apply to discriminations, prejudice, or disadvantage to the traffic of any other carrier of whatever description. Differences in the classifications, rates, fares, charges, rules, regulations, and practices of a water carrier in respect of water transportation from those in effect by a rail carrier with respect to rail transportation shall not be deemed to constitute unjust discrimination, prejudice, or disadvantage, or an unfair or destructive competitive practice, within the meaning of any provision of this Act.

Undue preference.

Unjust discrimination.

*Proviso.*  
Application of subsection.

Rail and water rates.

“(d) All common carriers by water shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines and connecting lines, and for the receiving, forwarding, and delivering of passengers or property to and from connecting lines; and shall not discriminate in their rates, fares, and charges between connecting lines, or unduly prejudice any connecting line in the distribution of traffic that is not specifically routed by the shipper. As used in this subsection the term ‘connecting line’ means the connecting line of any common carrier by water or any common carrier subject to part I.

Facilities for interchange of traffic.

Rates.

“‘Connecting line’ defined.

*Ante*, p. 899.

#### “TARIFFS AND SCHEDULES

“SEC. 306. (a) Every common carrier by water shall file with the Commission, and print, and keep open to public inspection tariffs showing all rates, fares, charges, classifications, rules, regulations, and practices for the transportation in interstate or foreign commerce of passengers and property between places on its own route, and between such places and places on the route of any other such carrier or on the route of any common carrier by railroad or by motor vehicle, when a through route and joint rate shall have been established. Such tariffs shall plainly state the places between which property or passengers will be carried, the classification of property or passengers and, separately, all terminal charges, or other charges which the Commission shall require to be so stated, all privileges or facilities granted or allowed, and any rules or regulations which in anywise change, affect, or determine any part or the aggregate of such rates, fares, or charges, or the value of the service rendered to the passenger, shipper, or consignee.

Tariffs and schedules.

“(b) All charges of common carriers by water shall be stated in lawful money of the United States. The Commission shall by regulations prescribe the form and manner in which the tariffs

Rejection authorized.

required by this section shall be published, filed, and posted; and the Commission is authorized to reject any tariff filed with it which is not in accordance with this section and with such regulations. Any tariff so rejected by the Commission shall be void and its use shall be unlawful.

Unauthorized charges, etc., forbidden.

"(c) No common carrier by water shall charge or demand or collect or receive a greater or less or different compensation for transportation subject to this part or for any service in connection therewith than the rates, fares, or charges specified for such transportation or such service in the tariffs lawfully in effect; and no such carrier shall refund or remit in any manner or by any device any portion of the rates, fares, or charges so specified, or extend to any person any privileges or facilities for transportation affecting the value thereof except such as are specified in its tariff: *Provided*, That the provisions of sections 1 (7) and 22 of part I (which relate to transportation free and at reduced rates), together with such other provisions of such part (including penalties) as may be necessary for the enforcement of such provisions, shall apply to common carriers by water.

*Proviso.*  
Application of certain provisions.  
*Ante*, p. 900.

Filing and publication of rates, etc.

"(d) No common carrier by water, unless otherwise provided by this part, shall engage in transportation subject to this part unless the rates, fares, and charges upon which the same are transported by said carrier have been filed and published in accordance with the provisions of this part. No change shall be made in any rate, fare, charge, classification, regulation, or practice specified in any effective tariff of a common carrier by water except after thirty days' notice of the proposed change filed and posted in accordance with this section. Such notice shall plainly state the change proposed to be made and the time when such change will take effect. The Commission may, in its discretion and for good cause shown, allow changes upon notice less than that herein specified, or modify the requirements of this section, either in particular instances or by general order applicable to special circumstances or conditions.

Notice required for change.

Establishment of minimum rates.

"(e) It shall be the duty of every contract carrier by water to establish and observe reasonable minimum rates and charges for any service rendered or to be rendered in the transportation of passengers or property or in connection therewith and to establish and observe reasonable regulations, and practices to be applied in connection with said reasonable minimum rates and charges. It shall be the duty of every contract carrier by water to file with the Commission, post, and keep open for public inspection, in accordance with such rules and regulations as the Commission shall prescribe, schedules of minimum rates or charges actually maintained and charged for interstate and foreign transportation to which it is a party, and any rule, regulation, or practice affecting such charges and the value of the service thereunder. No contract carrier by water, unless otherwise provided by this part, shall engage in transportation subject to this part unless the minimum rates or charges actually maintained and charged have been published, filed, and posted in accordance with the provisions of this part. No new rate or charge shall be established and no reduction shall be made in any rate or charge, either directly or by means of any change in any rule, regulation, or practice affecting such rate or charge, or the value of service thereunder, except after thirty days' notice of the proposed new rate or charge, or of the proposed change, filed in accordance with this section. The Commission may, in its discretion and for good cause shown, allow the establishment of any such new rate or charge, or any such change, upon notice less than herein specified, or modify the requirement of this section with respect to posting and filing of such schedules, either in particular instances or by general order applicable to special or peculiar circumstances or

Schedules open for inspection.

Publication, etc., required.

Changes.

Discretionary time reduction permitted.

conditions. Such notice shall plainly state the new rate or charge, or the change proposed to be made, and the time when it will take effect. It shall be unlawful for any such carrier to transport passengers or property or to furnish facilities or services in connection therewith for a less compensation, either directly or by means of a change in the terms and conditions of any contract, charter, agreement, or undertaking, than the rates or charges so filed with the Commission: *Provided*, That the Commission, in its discretion and for good cause shown, either upon application of any such carrier or carriers, or any class or group thereof, or upon its own initiative may, after hearing, grant relief from the provisions of this subsection to such extent, and for such time, and in such manner as, in its judgment, is consistent with the public interest and the national transportation policy declared in this Act.

Rates, etc., below schedule.

*Proviso.*  
Exemption for good cause shown.

#### "COMMISSION'S AUTHORITY OVER RATES, AND SO FORTH

"SEC. 307. (a) Any person may make complaint in writing to the Commission that any individual or joint rate, fare, charge, classification, regulation, or practice of any common carrier by water or any contract carrier by water is or will be in violation of this part. Every complaint shall state fully the facts complained of and the reasons for such complaint and shall be made under oath.

Complaints.

"(b) Whenever, after hearing, upon complaint or in an investigation on its own initiative, the Commission shall be of opinion that any individual or joint rate, fare, or charge demanded, charged, or collected by any common carrier or carriers by water for transportation subject to this part, or any regulation, practice, or classification of such carrier or carriers relating to such transportation, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of any provision of this part, it may determine and prescribe the lawful rate, fare, or charge or the maximum or minimum, or maximum and minimum rate, fare, or charge thereafter to be observed, or the lawful regulation, practice, or classification thereafter to be made effective.

Adjustment authorized.

"(c) In any proceeding to determine the justness or reasonableness of any rate, fare, or charge of any common carrier by water there shall not be taken into consideration or allowed as evidence or elements of value of the property of such carrier either goodwill, earning power, or the certificate under which such carrier is operating; and in applying for and receiving a certificate under this part any such carrier shall be deemed to have agreed to the provisions of this subsection on its own behalf and on behalf of all transferees of such certificate.

Inadmissible evidence, etc.

"(d) The Commission may, and it shall whenever deemed by it to be necessary or desirable in the public interest, after full hearing upon complaint or upon its own initiative without a complaint, establish through routes, joint classifications, and joint rates, fares, or charges, applicable to the transportation of passengers or property by common carriers by water, or by such carriers and carriers by railroad, or the maxima or minima, or maxima and minima, to be charged, and the divisions of such rates, fares, or charges as hereinafter provided, and the terms and conditions under which such through routes shall be operated. In the case of a through route, where one of the carriers is a common carrier by water, the Commission shall prescribe such reasonable differentials as it may find to be justified between all-rail rates and the joint rates in connection with such common carrier by water. The Commission shall not, however, establish any through route, classification, or practice, or any rate, fare, or charge, between street electric passenger railways not

Establishment of through routes, joint rates, etc.

Differentials.

Street railways excluded.



Burden of proof in cancellations.

*Ante*, p. 911.

Divisions of joint rates.

engaged in the general business of transporting freight in addition to their passenger and express business, and common carriers by water. If any tariff or schedule canceling any through route or joint rate, fare, charge, or classification, without the consent of all carriers parties thereto or authorization by the Commission, is suspended by the Commission for investigation, the burden of proof shall be upon the carrier or carriers proposing such cancellation to show that it is consistent with the public interest, without regard to the provisions of paragraph (4) of section 15.

“(e) Whenever, after hearing upon complaint or upon its own initiative, the Commission is of opinion that the divisions of joint rates, fares, or charges, applicable to the transportation of passengers or property by common carriers by water, or by such carriers and common carriers by railroad or by motor vehicle, are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto, the Commission shall by order prescribe the just, reasonable, and equitable divisions thereof to be received by the several carriers. In cases where the joint rate, fare, or charge, was established pursuant to a finding or order of the Commission and the divisions thereof are found by it to have been unjust, unreasonable, or inequitable, or unduly preferential or prejudicial, the Commission may also by order determine what (for the period subsequent to the filing of the complaint or petition or the making of the order of investigation) would have been the just, reasonable, and equitable divisions thereof to be received by the several carriers, and require adjustment to be made in accordance therewith. In so prescribing and determining the divisions of joint rates, fares and charges, the Commission shall give due consideration, among other things, to the efficiency with which the carriers concerned are operated, the amount of revenue required to pay their respective operating expenses, taxes, and a fair return on their property held for and used in the service of transportation, and the importance to the public of the transportation services of such carriers and also whether any particular participating carrier is an originating, intermediate, or delivering line, and any other fact or circumstance which would ordinarily, without regard to the mileage haul, entitle one carrier to a greater or less proportion than another carrier of the joint rate, fare, or charge.

Rate-making policy.

“(f) In the exercise of its power to prescribe just and reasonable rates, fares, and charges of common carriers by water, and classifications, regulations, and practices relating thereto, the Commission shall give due consideration, among other factors, to the effect of rates upon the movement of traffic by the carrier or carriers for which the rates are prescribed; to the need, in the public interest, of adequate and efficient water transportation service at the lowest cost consistent with the furnishing of such service; and to the need of revenues sufficient to enable water carriers, under honest, economical, and efficient management, to provide such service.

Suspension of new rate, etc., pending decision.

*Post*, p. 951.

“(g) Whenever there shall be filed with the Commission any schedule (except a schedule referred to in section 322) stating a new rate, fare, charge, classification, regulation, or practice for the interstate or foreign transportation of passengers or property by a common carrier or carriers by water, the Commission may upon protest of interested parties or upon its own initiative at once, and, if it so orders, without answer or other formal pleading by such carrier or carriers, but upon reasonable notice, enter upon an investigation concerning the lawfulness of such rate, fare, charge, classification, regulation, or practice, and pending such hearing and the decision thereon, the Commission, by filing with such schedule and delivering to the carrier or carriers affected thereby a statement in

writing of its reasons for such suspension, may from time to time suspend the operation of such schedule and defer the use of such rate, fare, charge, classification, regulation, or practice, but not for a longer period than seven months beyond the time when it would otherwise go into effect; and after hearing, whether completed before or after the rate, fare, charge, classification, regulation, or practice goes into effect, the Commission may make such order with reference thereto, as would be proper in a proceeding instituted after such rate, fare, charge, classification, regulation, or practice had become effective. If the proceeding shall not have been concluded and an order made within the period of suspension, the proposed rate, fare, charge, classification, regulation, or practice shall go into effect at the end of such period: *Provided, however*, That this subsection shall not apply to any initial schedule filed prior to October 1, 1941, by any such carrier (other than a carrier subject, at the time this part takes effect, to the provisions of the Intercoastal Shipping Act, 1933, as amended, or the Shipping Act, 1916, as amended) insofar as such schedule names rates on traffic, or for services connected therewith, as to which such carrier was in bona fide operation on January 1, 1940. At any hearing involving a change in a rate, fare, charge, or classification, or in a rule, regulation, or practice, the burden of proof shall be upon the carrier to show that the proposed changed rate, fare, charge, classification, rule, regulation, or practice is just and reasonable.

“(h) Whenever, after hearing, upon complaint or its own initiative, the Commission finds that any minimum rate or charge of any contract carrier by water, or any rule, regulation, or practice of any such carrier affecting such minimum rate or charge, or the value of the service thereunder, contravenes the national transportation policy declared in this Act, or is in contravention of any provision of this part, the Commission may prescribe such just and reasonable minimum rate or charge, or such rule, regulation, or practice as in its judgment may be necessary or desirable in the public interest and to promote such policy and will not be in contravention of any provision of this part. Such minimum rate or charge, or such rule, regulation, or practice, so prescribed by the Commission, shall give no advantage or preference to any such carrier in competition with any common carrier by water subject to this part, which the Commission may find to be undue or inconsistent with the public interest and the national transportation policy declared in this Act, and the Commission shall give due consideration to the cost of the services rendered by such carriers, and to the effect of such minimum rate or charge, or such rule, regulation, or practice, upon the movement of traffic by such carriers. All complaints shall state fully the facts complained of and the reasons for such complaint and shall be made under oath.

“(i) Whenever there shall be filed with the Commission by any such contract carrier any schedule (except a schedule referred to in section 322) stating a charge for a new service or a reduced charge, directly or by means of any rule, regulation, or practice, for transportation in interstate or foreign commerce, the Commission may upon complaint of interested parties or upon its own initiative at once and, if it so orders, without answer or other formal pleading by the interested party, but upon reasonable notice, enter upon a hearing concerning the lawfulness of such charge, or such rule, regulation, or practice, and pending such hearing and the decision thereon the Commission, by filing with such schedule and delivering to the carrier affected thereby a statement in writing of its reasons for such suspension, may from time to time suspend the operation of such schedule and defer the use of such charge, or such rule, regulation, or practice, but not

Suspension period.

*Proviso.*  
Exceptions.47 Stat. 1425.  
46 U. S. C. §§ 843-  
848; Supp. V, §§ 844-  
848.  
39 Stat. 728.  
46 U. S. C., ch. 23;  
Supp. V, ch. 23.

Burden of proof.

Revision of mini-  
mum rates.

Undue preference.

Complaints.

Modification of  
schedules.  
*Post*, p. 951.

Hearing.

Temporary suspen-  
sion.

for a longer period than seven months beyond the time when it would otherwise go into effect; and after hearing, whether completed before or after the charge, or rule, regulation, or practice goes into effect, the Commission may make such order with reference thereto as would be proper in a proceeding instituted after it had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed change in any charge or rule, regulation, or practice shall go into effect at the end of such period: *Provided*, That this subsection shall not apply to any initial schedule filed prior to October 1, 1941, by any such carrier (other than a carrier subject, at the time this part takes effect, to the provisions of the Intercoastal Shipping Act, 1933, as amended, or the Shipping Act, 1916, as amended) insofar as such schedule names charges on traffic, or for services connected therewith, as to which such carrier was in bona fide operation on January 1, 1940. The rule as to burden of proof specified in subsection (g) of this section shall apply to this subsection.

#### "REPARATION AWARDS; LIMITATION OF ACTIONS"

"Carrier" defined.

"SEC. 308. (a) For the purposes of this section the term 'carrier' means a water carrier engaged in transportation subject to this part (1) by way of the Panama Canal, or (2) as a common carrier by water on the high seas or the Great Lakes on regular routes from port to port.

Liability for damages.

"(b) In case any carrier shall do, cause to be done, or permit to be done any act, matter, or thing in this part prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing in this part required to be done, such carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation, together with a reasonable counsel or attorney's fee, to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case.

Right of person damaged; remedies.

"(c) Any person or persons claiming to be damaged by any carrier may either make complaint to the Commission or may bring suit in his or their own behalf for the recovery of the damages for which such carrier may be liable under the provisions of subsection (b), in any district court of the United States of competent jurisdiction; but such person or persons shall not have the right to pursue both of said remedies.

Award.

"(d) If, after hearing on a complaint, the Commission shall determine that any party complainant is entitled to an award of damages under the provisions of this part for a violation thereof by any carrier, the Commission shall make an order directing the carrier to pay to the complainant the sum to which he is entitled on or before a day named.

Suit for recovery.

"(e) If such carrier does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may file with the district court of the United States for the district in which he or it resides or in which is located the principal operating office of such carrier or in which is located any port of call on a route operated by such carrier, or in any State court of general jurisdiction having jurisdiction of the parties, a complaint setting forth briefly the causes for which he claims damages, and the order of the Commission in the premises. Such suit in the district court of the United States shall proceed in all respects like other civil suits for damages, except that on the trial of such suit the findings and order of the Commission shall be prima facie evidence of the facts therein stated, and except

*Proviso.*

*Exception.*

47 Stat. 1425.

46 U. S. C. §§ 843-848; Supp. V, §§ 844-848.

39 Stat. 728.

46 U. S. C., ch. 23; Supp. V, ch. 23.

Burden of proof.

that the plaintiff shall not be liable for costs in the district court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the plaintiff shall finally prevail he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit.

"(f) (1) All complaints against carriers for the recovery of damages or overcharges shall be filed with the Commission within three years from the time the cause of action accrues, and not after.

"(2) The cause of action in respect of a shipment of property shall, for the purposes of this section, be deemed to accrue upon delivery or tender of delivery thereof by the carrier and not after.

"(3) A complaint for the enforcement of an order of the Commission for the payment of money shall be filed in the district court or the State court within one year from the date of the order, and not after.

"(4) The term 'overcharges' as used in this section means charges for transportation services in excess of those applicable thereto under the tariffs lawfully on file with the Commission.

"(5) The provisions of this subsection (f) shall take effect six months after this section becomes effective and extend to and embrace cases in which the cause of action has heretofore accrued.

"(g) In such suits all parties in whose favor the Commission may have made an award of damages by a single order may be joined as plaintiffs, and all of the carriers parties to such order awarding such damages may be joined as defendants, and such suit may be maintained by such joint plaintiffs and against such joint defendants in any district where any one of such joint plaintiffs could maintain such suit against any one of such joint defendants; and service of process against any one of such defendants as may not be found in the district where the suit is brought may be made in any district where such defendant has his or its principal operating office. In case of such joint suit the recovery, if any, may be by judgment in favor of any one of such plaintiffs, against the defendant found to be liable to such plaintiff.

Attorney's fee.

Time limitations.

"Overcharges" defined.

Effective date; scope.

Joinder of parties.

Service of process.

Judgment.

#### "CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND PERMITS

"SEC. 309. (a) Except as otherwise provided in this section and section 311, no common carrier by water shall engage in transportation subject to this part unless it holds a certificate of public convenience and necessity issued by the Commission: *Provided, however,* That, subject to section 310, if any such carrier or a predecessor in interest was in bona fide operation as a common carrier by water on January 1, 1940, over the route or routes or between the ports with respect to which application is made and has so operated since that time (or, if engaged in furnishing seasonal service only, was in bona fide operation during the seasonal period, prior to or including such date, for operations of the character in question) except, in either event, as to interruptions of service over which the applicant or its predecessor in interest had no control, the Commission shall issue such certificate without requiring further proof that public convenience and necessity will be served by such operation, and without further proceedings, if application for such certificate is made to the Commission as provided in subsection (b) of this section and prior to the expiration of one hundred and twenty days after this section takes effect. Pending the determination of any such application, the continuance of such operation shall be lawful. If the application for such certificate is not made within one hundred and twenty days after this section takes effect, it shall be decided in accordance with the standards and procedure provided for in subsection (c),

Certificates of public convenience and necessity.

Proviso. Waiver of provisions.

Time limitation.

Provisional continuance of operation.

and such certificate shall be issued or denied accordingly. Any person, not included within the provisions of the foregoing proviso, who is engaged in transportation as a common carrier by water when this section takes effect may continue such operation for a period of one hundred and twenty days thereafter without a certificate, and, if application for such certificate is made to the Commission within such period, the continuance of such operation shall be lawful pending determination of such application.

Application for certificate.

"(b) Application for a certificate shall be made in writing to the Commission, be verified under oath, and shall be in such form and contain such information and be accompanied by proof of service upon such interested parties as the Commission shall, by regulations, require.

Qualifications for issuance.  
*Post*, p. 943.

"(c) Subject to section 310, upon application as provided in this section the Commission shall issue a certificate to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if the Commission finds that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this part and the requirements, rules, and regulations of the Commission thereunder, and that the proposed service, to the extent authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied.

Routes; ports.

"(d) Such certificate shall specify the route or routes over which, or the ports to and from which, such carrier is authorized to operate, and, at the time of issuance and from time to time thereafter, there shall be attached to the exercise of the privileges granted by such certificate such reasonable terms, conditions, and limitations as the public convenience and necessity may from time to time require, including terms, conditions, and limitations as to the extension of the route or routes of the carrier, and such other terms, and conditions, and limitations as are necessary to carry out, with respect to the operations of the carrier, the requirements of this part or those established by the Commission pursuant thereto: *Provided, however*, That no terms, conditions, or limitations shall restrict the right of the carrier to add to its equipment, facilities, or service within the scope of such certificate, as the development of the business and the demands of the public shall require, or the right of the carrier to extend its services over uncompleted portions of waterway projects now or hereafter authorized by Congress, over the completed portions of which it already operates, as soon as such uncompleted portions are open for navigation.

Terms, conditions, and limitations.

*Proviso.*  
Right to add equipment.

Extension of services.

Use of public waterways.

Permit prerequisite to operation.

*Proviso.*  
Waiver of provisions.

"(e) No certificate issued under this part shall confer any proprietary or exclusive right or rights in the use of public waterways.

"(f) Except as otherwise provided in this section and section 311, no person shall engage in the business of a contract carrier by water unless he or it holds an effective permit, issued by the Commission authorizing such operation: *Provided*, That, subject to section 310, if any such carrier or a predecessor in interest was in bona fide operation as a contract carrier by water on January 1, 1940, over the route or routes or between the ports with respect to which application is made, and has so operated since that time (or, if engaged in furnishing seasonal service only, was in bona fide operation during the seasonal period, prior to or including such date, for operations of the character in question) except, in either event, as to interruptions of service over which the applicant or its predecessor in interest had no control, the Commission shall issue such permit, without further proceedings, if application for such permit is made to the Commission as provided in subsection (g) of this section and prior to the expiration of one hundred and twenty days after this section takes effect. Pending the determination of any such application, the continuance of such

Provisional continuance of operation.

operation shall be lawful. If the application for such permit is not made within one hundred and twenty days after this section takes effect, it shall be decided in accordance with the standards and procedure provided for in subsection (g), and such permit shall be issued or denied accordingly. Any person, not included within the provision of the foregoing proviso, who is engaged in transportation as a contract carrier by water when this section takes effect may continue such operation for a period of one hundred and twenty days thereafter without a permit, and, if application for such permit is made to the Commission within such period, the continuance of such operation shall be lawful pending the determination of such application.

“(g) Application for such permit shall be made to the Commission in writing, be verified under oath, and shall be in such form and contain such information and be accompanied by proof of service upon such interested parties as the Commission shall, by regulations, require. Subject to section 310, upon application the Commission shall issue such permit if it finds that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this part and the requirements, rules, and regulations of the Commission thereunder, and that such operation will be consistent with the public interest and the national transportation policy declared in this Act. The business of the carrier and the scope thereof shall be specified in such permit and there shall be attached thereto at time of issuance and from time to time thereafter such reasonable terms, conditions, and limitations, consistent with the character of the holder as a contract carrier by water, as are necessary to carry out the requirements of this part or those lawfully established by the Commission pursuant thereto: *Provided, however,* That no terms, conditions, or limitations shall restrict the right of the carrier to substitute or add contracts within the scope of the permit, or to add to his equipment, facilities, or service, within the scope of the permit, as the development of the business and the demands of the carrier's patrons shall require.

Application for permit.

Issuance.

*Proviso.*  
Certain rights not restricted.

#### “DUAL OPERATIONS UNDER CERTIFICATES AND PERMITS

“SEC. 310. Unless, for good cause shown, the Commission shall find, or shall have found, that both a certificate and a permit may be so held consistently with the public interest and with the national transportation policy declared in this Act—

Operation under certificate and permit.

“(1) no person, or any person controlling, controlled by, or under common control with such person, shall hold a certificate as a common carrier by water if such person, or any such controlling person, controlled person, or person under common control, holds a permit as a contract carrier by water; and

“(2) no person, or any person controlling, controlled by, or under common control with such person, shall hold a permit as a contract carrier by water if such person, or any such controlling person, controlled person, or person under common control, holds a certificate as a common carrier by water.

#### “TEMPORARY OPERATIONS

“SEC. 311. (a) To enable the provision of service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting such need, the Commission may, in its discretion and without hearings or other proceedings, grant temporary authority for such service by a common carrier by water or a contract carrier by water, as the case may be.

Temporary operation authority.

Duration.

Such temporary authority shall be valid for such time as the Commission shall specify but not for more than an aggregate of one hundred and eighty days, and shall create no presumption that corresponding permanent authority will be granted thereafter.

Merger.

"(b) Pending the determination of an application filed with the Commission under this Act for approval of a consolidation or merger of the properties of two or more water carriers, or of a purchase, lease, or contract to operate the properties of one or more water carriers, the Commission may, for good cause shown, and without hearings or other proceedings, grant temporary approval, for a period not exceeding one hundred and eighty days, of operation of the properties of such carriers by water by the person proposing to acquire them, as aforesaid.

#### "TRANSFER OF CERTIFICATES AND PERMITS

Transfer of certificates and permits.

"SEC. 312. Except as provided in this part, any such certificate or permit may be transferred in accordance with such regulations as the Commission shall prescribe for the protection of the public interest and to insure compliance with the provisions of this part.

#### "ACCOUNTS, RECORDS, AND REPORTS

Authority of Commission.

"SEC. 313. (a) The Commission is hereby authorized to require annual, periodical, or special reports from water carriers and lessors (as defined in this section), and to prescribe the manner and form in which such reports shall be made, and to require from such carriers and lessors specific and full, true, and correct answers to all questions upon which the Commission may deem information to be necessary. Such annual reports shall give an account of the affairs of the carrier or lessor in such form and detail as may be prescribed by the Commission. Said annual reports shall contain all the required information for the period of twelve months ending on the thirty-first day of December in each year, unless the Commission shall specify a different date, and shall be made out under oath and filed with the Commission at its office in Washington within three months after the close of the year for which the report is made, unless additional time be granted in any case by the Commission. Such periodical or special reports as may be required by the Commission under this paragraph shall also be under oath whenever the Commission so requires.

Information required.

Filing of copy of contract, charter, or agreement.

Confidential treatment accorded.

Proviso. Failure to conform to published schedule.

Ante, p. 936.

Uniform system of accounts.

"(b) The Commission may also require any such carrier to file with it a true copy of any contract, charter, or agreement between such carrier and any other carrier or person in relation to transportation facilities, service, or traffic affected by the provisions of this part. The Commission shall not, however, make public any contract, charter, or agreement between a contract carrier by water and a shipper, or any of the terms or conditions thereof, except as a part of the record in a formal proceeding where it considers such action consistent with the public interest: *Provided*, That if it appears from an examination of any such contract that it fails to conform to the published schedule of the contract carrier by water as required by section 306 (e), the Commission may, in its discretion, make public such of the provisions of the contract as the Commission considers necessary to disclose such failure and the extent thereof.

"(c) The Commission may, in its discretion, for the purpose of enabling it the better to carry out the purposes of this part, prescribe a uniform system of accounts applicable to any class of water carriers, and a period of time within which such class shall have such uniform system of accounts, and the manner in which such accounts shall be kept.

"(d) The Commission shall, as soon as practicable, prescribe for water carriers the classes of property for which depreciation charges may properly be included under operating expenses, and the rate or rates of depreciation which shall be charged with respect to each of such classes of property, classifying the carriers as it may deem proper for this purpose. The Commission may, when it deems necessary, modify the classes and rates so prescribed. When the Commission shall have exercised its authority under the foregoing provisions of this subsection, water carriers shall not charge to operating expenses any depreciation charges on classes of property other than those prescribed by the Commission, or charge with respect to any class of property a rate of depreciation other than that prescribed therefor by the Commission, and no such carrier shall in any case include under operating expenses any depreciation charge in any form whatsoever other than as prescribed by the Commission.

Depreciation charges; rates.

Modifications.

"(e) The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by water carriers and lessors, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of money, and it shall be unlawful for such carriers or lessors to keep any accounts, records, and memoranda contrary to any rules, regulations, or orders of the Commission with respect thereto.

Forms of accounts, records, and memoranda.

"(f) The Commission or its duly authorized special agents, accountants, or examiners shall have authority to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents, of such water carriers and lessors, and such accounts, books, records, memoranda, correspondence, and other documents of any person controlling, controlled by, or under common control with any such carrier as the Commission deems relevant to such person's relation to or transactions with such carrier. The Commission or its duly authorized special agents, accountants, or examiners shall at all times have access to all lands, buildings, or equipment of such carriers or lessors, and shall have authority under its order to inspect and examine any and all such lands, buildings, and equipment. All such carriers, lessors, and persons shall submit their accounts, books, records, memoranda, correspondence, and other documents for the inspection and for copying authorized by this paragraph, and such carriers and lessors shall submit their lands, buildings, and equipment for inspection and examination, to any duly authorized special agent, accountant, or examiner of the Commission, upon demand and the display of proper credentials.

Inspection and examination of accounts, lands, equipment, etc.

"(g) The Commission may issue orders specifying such operating, accounting, or financial papers, records, books, blanks, tickets, stubs, correspondence, or documents of water carriers or lessors as may, after a reasonable time, be destroyed, and prescribing the length of time the same shall be preserved.

Preservation of records; destruction.

"(h) As used in this section, the words 'keep' and 'kept' shall be construed to mean made, prepared, or compiled, as well as retained; the term 'lessor' means a lessor of any right to operate as a water carrier; and the term 'water carrier' or 'lessor' includes a receiver or trustee of such water carrier or lessor.

"Keep" and "kept."

"Lessor."  
"Water carrier" or "lessor."

#### "ALLOWANCES TO SHIPPERS FOR TRANSPORTATION SERVICES

"SEC. 314. If the owner of property transported under this part directly or indirectly renders any service connected with such transportation, or furnishes any instrumentality used therein, the charge and allowance therefor shall be published in tariffs or schedules filed in the manner provided in this part and shall be no more than is just and reasonable; and the Commission may, after hearing on a com-

Allowances.



plaint or on its own initiative, determine what is a reasonable charge as the maximum to be paid by the carrier or carriers for the services so rendered or for the use of the instrumentality so furnished, and fix the same by appropriate order.

“NOTICES, ORDERS, AND SERVICE OF PROCESS

Designation of agent upon whom service may be made.

“SEC. 315. (a) It shall be the duty of every water carrier to file with the Commission a designation in writing of the name and post-office address of an agent upon whom or which service of notices or orders may be made under this part. Such designation may from time to time be changed by like writing similarly filed. Service of notices or orders in proceedings under this part may be made upon such carrier by personal service upon it or upon an agent so designated by it, or by registered mail addressed to it or to such agent at the address filed. In default of such designation, service of any notice or order may be made by posting in the office of the secretary of the Commission. Whenever notice or order is served by mail, as provided herein, the date of mailing shall be considered as the time of service. In proceedings before the Commission involving the lawfulness of rates, fares, charges, classifications, or practices, service of notice upon an attorney in fact of a carrier who has filed a tariff or schedule in behalf of such carrier shall be deemed to be due and sufficient service upon the carrier.

Hearing or investigation prerequisite.

“(b) No order, based upon a finding that any water carrier has violated any provision of this part, shall be made by the Commission except after hearing upon complaint or after an investigation upon its own initiative.

“(c) The Commission may suspend, modify, or set aside its orders under this part upon such notice and in such manner as it shall deem proper.

Effective dates.

“(d) Except as otherwise provided in this part, all orders of the Commission, other than orders for the payment of money, shall take effect within such reasonable time, not less than thirty days, as the Commission may prescribe and shall continue in force until its further order, or for a specified period of time, according as shall be prescribed in the order, unless the same shall be suspended, modified, or set aside by the Commission, or be suspended or set aside by a court of competent jurisdiction.

Observance of orders.

“(e) It shall be the duty of every water carrier, its agents and employees, to observe and comply with such orders so long as the same shall remain in effect.

“ENFORCEMENT AND PROCEDURE

Enforcement and procedure.

*Ante*, pp. 910, 913.  
49 U. S. C. § 46.  
15 U. S. C. §§ 32, 33.

“SEC. 316. (a) The provisions of section 12 and section 17 of part I, and the Compulsory Testimony Act (27 Stat. 443), and the Immunity of Witnesses Act (34 Stat. 798; 32 Stat. 904, ch. 755, sec. 1), shall apply with full force and effect in the administration and enforcement of this part.

Failure to comply with designated provisions, etc.

“(b) If any water carrier fails to comply with or operates in violation of any provision of this part (except provisions as to the reasonableness of rates, fares, or charges, and the discriminatory character thereof), or any rule, regulation, requirement, or order thereunder (except an order for the payment of money), or of any term or condition of any certificate or permit, the Commission or the Attorney General of the United States (or, in case of such an order, any party injured by the failure to comply therewith or by the violation thereof) may apply to any district court of the United States having jurisdic-

tion of the parties for the enforcement of such provision of this part or of such rule, regulation, requirement, order, term, or condition; and such court shall have jurisdiction to enforce obedience thereto by a writ or writs of injunction or other process, mandatory or otherwise, restraining such carrier and any officer, agent, employee, or representative thereof from further violation of such provision of this part or of such rule, regulation, requirement, order, term, or condition and enjoining obedience thereto.

Enforcement of obedience.

“(c) The Commission shall enter of record a written report of hearings conducted upon complaint, or upon its own initiative without complaint, stating its conclusions, decision, and order and, if reparation is awarded, the findings of fact upon which the award is made; and shall furnish a copy of such report to all parties of record. The Commission may provide for the publication of such reports in the form best adapted for public information and use, and such authorized publications shall, without further proof or authentication, be received as competent evidence of such reports in any court of competent jurisdiction.

Written report of hearings.

Publication.

“(d) Subject to the provisions of section 313, the copies of schedules, and classifications and tariffs of rates, fares, and charges, and of all contracts, agreements, and arrangements of water carriers filed with the Commission as herein provided, and the statistics, tables, and figures contained in the annual or other reports of carriers made to the Commission as required, under the provisions of this part shall be preserved as public records in the custody of the secretary of the Commission, and shall be received as prima facie evidence of what they purport to be for the purpose of investigations by the Commission and in all judicial proceedings; and copies of and extracts from any of said schedules, classifications, tariffs, contracts, agreements, arrangements, or reports, made public records as aforesaid, certified by the secretary, under the Commission's seal, shall be received in evidence with like effect as the originals.

*Ante*, p. 944.

Public records.

Certified copies as evidence.

#### “UNLAWFUL ACTS AND PENALTIES

“SEC. 317. (a) Any person who knowingly and willfully violates any provision of this part, or any rule, regulation, requirement, or order thereunder, or any term or condition of any certificate or permit, for which no penalty is otherwise provided, shall be deemed guilty of a misdemeanor and upon conviction thereof in any court of the United States of competent jurisdiction in the district in which such offense was in whole or in part committed shall be subject for each offense to a fine not exceeding \$500. Each day of such violation shall constitute a separate offense.

Unlawful acts and penalties.

“(b) Any water carrier or any officer, agent, employee, or representative thereof, who shall knowingly and willfully offer, grant, or give, or cause to be offered, granted, or given, any rebate, deferred rebate, or other concession, in violation of the provisions of this part, or who, by any device or means, shall knowingly and willfully assist, or shall willingly suffer or permit, any person to obtain transportation subject to this part at less than the rates, fares, or charges lawfully in effect, shall be deemed guilty of a misdemeanor and upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was wholly or in part committed shall be subject for each offense to a fine of not more than \$5,000.

Offering of rebates, etc.

Penalty.

“(c) Any person who shall knowingly and willfully solicit, accept, or receive any rebate, deferred rebate, or other concession in violation of the provisions of this part, or who shall by any device or means, whether with or without the consent or connivance of any water carrier

Soliciting or receiving rebates.

False claims, etc.

or his or its officer, agent, employee, or representative, knowingly and willfully obtain transportation subject to this part at less than the rates, fares, or charges lawfully in effect, or shall knowingly and willfully, directly or indirectly, by false claim, false billing, false representation, or other device or means, obtain or attempt to obtain any allowance, refund, or repayment in connection with or growing out of such transportation, whether with or without the consent or connivance of such carrier or his or its officer, agent, employee, or representative, whereby the compensation of such carrier for such transportation or service, either before or after payment, shall be less than the rates, fares, or charges lawfully in effect, shall be deemed guilty of a misdemeanor and upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was in whole or in part committed, be subject for each offense to a fine of not more than \$5,000.

Penalty.

Failure to make required report.

“(d) Any water carrier or other person, or any officer, agent, employee, or representative thereof, who shall willfully fail or refuse to make a report to the Commission as required by this part, or to make specific and full, true, and correct answer to any question within thirty days from the time it is lawfully required by the Commission so to do, or to keep accounts, records, and memoranda in the form and manner prescribed by the Commission, or shall willfully falsify, destroy, mutilate, or alter any report, account, record, memorandum, book, correspondence, or other document, required under this part to be kept, or who shall willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions as required under this part, or shall willfully keep any accounts, records, or memoranda contrary to the rules, regulations, or orders of the Commission with respect thereto, or shall knowingly and willfully file with the Commission any false report, account, record, or memorandum, shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was in whole or in part committed, be subject for each offense to a fine of not more than \$5,000. As used in this subsection, the word ‘keep’ shall be construed to mean made, prepared, or compiled, as well as retained.

False reports.

Penalty.

“Keep” construed.

Unlawful disclosures by Commission employee.

*Ante*, p. 944.

Penalty.

Unlawful disclosures by carrier, etc.

“(e) Any special agent, accountant, or examiner of the Commission who knowingly and willfully divulges any fact or information which may come to his knowledge during the course of any examination or inspection made under authority of section 313, except as he may be directed by the Commission or by a court or judge thereof, shall be guilty of a misdemeanor and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not more than \$500 or imprisonment for a term not exceeding six months, or both.

“(f) It shall be unlawful for any common carrier by water, or any officer, receiver, trustee, lessee, agent, or employee of such carrier, or for any other person authorized by such carrier or person to receive information, knowingly and willfully to disclose to or permit to be acquired by any person other than the shipper or consignee, without the consent of such shipper or consignee, any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to such carrier for transportation subject to this part, which information may be used to the detriment or prejudice of such shipper or consignee, or which may or does improperly disclose his business transactions to a competitor; and it shall also be unlawful for any person to solicit or knowingly and

willfully receive any such information which may be or is so used. Any person violating any provisions of this subsection shall be guilty of a misdemeanor and upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was in whole or in part committed shall be subject to a fine of not more than \$2,000. Nothing in this part shall be construed to prevent the giving of such information in response to any legal process issued under the authority of any court, or to any officer or agent of the Government of the United States or of any State, Territory, or District thereof, in the exercise of his powers, or to any officer or other duly authorized person seeking such information for the prosecution of persons charged with or suspected of crimes, or to another carrier, or its duly authorized agent, for the purpose of adjusting mutual traffic accounts in the ordinary course of business of such carriers.

Penalty.

Exceptions.

#### "COLLECTION OF RATES AND CHARGES

"SEC. 318. No common carrier by water shall deliver or relinquish possession at destination of any freight transported by it until all tariff rates and charges thereon have been paid, except under such rules and regulations as the Commission may from time to time prescribe to govern the settlement of all such rates and charges, including rules and regulations for periodical settlement, and to prevent unjust discrimination or undue preference or prejudice: *Provided*, That the provisions of this paragraph shall not be construed to prohibit any such carrier from extending credit in connection with rates and charges on freight transported for the United States, for any department, bureau, or agency thereof, or for any State or Territory or political subdivision thereof, or for the District of Columbia. Where such carrier is instructed by a shipper or consignor to deliver property transported by such carrier to a consignee other than the shipper or consignor, such consignee shall not be legally liable for transportation charges in respect of the transportation of such property (beyond those billed against him at the time of delivery for which he is otherwise liable) which may be found to be due after the property has been delivered to him, if the consignee (1) is an agent only and had no beneficial title in the property, and (2) prior to delivery of the property has notified the delivering carrier in writing of the fact of such agency and absence of beneficial title, and, in the case of a shipment reconsigned or diverted to a point other than that specified in the original bill of lading, has notified the delivering carrier in writing of the name and address of the beneficial owner of the property. In such cases the shipper or consignor, or in the case of a shipment so reconsigned or diverted, the beneficial owner shall be liable for such additional charges irrespective of any provisions to the contrary in the bill of lading or in the contract under which the shipment was made or handled. An action for the enforcement of such liability may be begun within two years from the time the cause of action accrues, or before the expiration of six months after final judgment against the carrier in an action against the consignee begun within said period. If the consignee has given to the carrier erroneous information as to who is the beneficial owner, such consignee shall himself be liable for such additional charges, notwithstanding the foregoing provisions of this paragraph. An action for the enforcement of such liability may be begun within two years from the time the cause of action accrues, or before the expiration of six months after final judgment against the carrier in an action

Collection of rates and charges.

*Proviso.*  
Governmental freight.

Nonliability of consignee.

Liability of shipper, consignor, or beneficial owner.

Time limitations.

Liability of consignee.

Time limitations.

Reconsignments,  
etc., liability of bene-  
ficial owner.

against the beneficial owner named by the consignee begun within said period. On shipments reconsigned or diverted by an agent who has furnished the carrier with a notice of agency and the proper name and address of the beneficial owner, and where such shipments are refused or abandoned at ultimate destination, the said beneficial owner shall be liable for all legally applicable charges in connection therewith.

#### "EMPLOYEES

Employees.

"SEC. 319. The Commission is authorized to employ such experts, assistants, special agents, examiners, attorneys, and other employees as in its judgment may be necessary or advisable for the convenience of the public and for the efficient administration of this part. Such examiners shall have power to administer oaths, examine witnesses, and receive evidence.

Power to administer  
oaths, etc.

#### "REPEALS

39 Stat. 728.  
47 Stat. 1425.  
46 U. S. C. §§ 801-  
842, 843-848; Supp. V,  
§§ 804-848.

"SEC. 320. (a) The Shipping Act, 1916, as amended, and the Intercoastal Shipping Act, 1933, as amended, are hereby repealed insofar as they are inconsistent with any provision of this part and insofar as they provide for the regulation of, or the making of agreements relating to, transportation of persons or property by water in commerce which is within the jurisdiction of the Commission under the provisions of this part; and any other provisions of law are hereby repealed insofar as they are inconsistent with any provision of this part.

49 Stat. 1987.  
46 U. S. C., Supp. V,  
§ 1115.

"(b) Nothing in subsection (a) shall be construed to repeal—

"(1) section 205 of the Merchant Marine Act, 1936, as amended, or any provision of law providing penalties for violations of such section 205;

47 Stat. 1425, 1427.  
46 U. S. C. §§ 844,  
847; Supp. V, §§ 844,  
847.

"(2) the third sentence of section 2 of the Intercoastal Shipping Act, 1933, as amended, as extended by section 5 of such Act, or any provision of law providing penalties for violations of such section 2;

39 Stat. 728.  
46 U. S. C. § 801.

"(3) the provisions of the Shipping Act, 1916, as amended, insofar as such Act provides for the regulation of persons included within the term 'other person subject to this Act', as defined in such Act;

41 Stat. 990.  
46 U. S. C. §§ 883, 884;  
Supp. V, §§ 883, 884.

"(4) sections 27 and 28 of the Merchant Marine Act, 1920, as amended.

39 Stat. 733.  
46 U. S. C. § 814.

"(c) Nothing in subsection (a) shall be construed to affect the provisions of section 15 of the Shipping Act, 1916, so as to prevent any water carrier subject to the provisions of this part from entering into any agreement under the provisions of such section 15 with respect to transportation not subject to the provisions of this part in which such carrier may be engaged.

"(d) Nothing in this part shall be construed to affect any law of navigation, the admiralty jurisdiction of the courts of the United States, liabilities of vessels and their owners for loss or damage, or laws respecting seamen, or any other maritime law, regulation, or custom not in conflict with the provisions of this part.

Repeal.  
45 Stat. 980.  
49 U. S. C., Supp. V,  
§ 153 (e).

Proviso.  
Continuance of cer-  
tificates of public con-  
venience, etc.  
*Ante*, p. 941.

"(e) Subsection (e) of section 3 of the Inland Waterways Corporation Act of June 7, 1924, as amended (U. S. C., title 49, sec. 153 (e)), is hereby repealed as of October 1, 1940: *Provided, however*, That (1) any certificate of public convenience and necessity granted to any carrier pursuant to the provisions of such subsection (e) shall continue in effect as though issued under the provisions of section 309 of the Interstate Commerce Act, as amended; and (2) through routes and joint rates, and rules, regulations, and practices relating thereto, put into effect pursuant to the provisions of such subsection (e) shall, after

the repeal of such subsection (e), be held and considered to have been put into effect pursuant to the provisions of the Interstate Commerce Act, as amended.

**"TRANSFER OF EMPLOYEES, RECORDS, PROPERTY, AND APPROPRIATIONS**

"SEC. 321. (a) Such officers and employees of the United States Maritime Commission as the President shall determine to have been employed in the administration of the provisions of law repealed by section 320, and whose retention by the United States Maritime Commission is not necessary, in the opinion of the President, for the performance of other duties, are transferred to the Interstate Commerce Commission upon such date or dates as the President shall specify by Executive order. Such transfer of such personnel shall be without reduction in classification or compensation, except that this requirement shall not operate after the end of the fiscal year during which such transfer is made to prevent the adjustment of classification or compensation to conform to the duties to which such transferred personnel may be assigned.

Transfer of personnel.

*Ante*, p. 950.

"(b) All files, reports, records, tariff schedules, property (including office furniture and equipment), contracts, agreements, documents, or papers kept or used by, made to, or filed with the United States Maritime Commission under or in the administration of any provision of law repealed by this part, are hereby transferred to the jurisdiction and control of the Interstate Commerce Commission, and may be used for such purposes as the Interstate Commerce Commission may deem necessary in the administration of this part; except that in the case of files, reports, records, tariff schedules, contracts, agreements, documents, or papers, the retention of which is necessary for purposes of the administration by the United States Maritime Commission of matters within its jurisdiction, the furnishing to the Interstate Commerce Commission of copies thereof shall constitute sufficient compliance with the provisions of this subsection.

Records, property, etc.

"(c) All appropriations and unexpended balances of appropriations available for expenditure by the United States Maritime Commission in the administration of any provision of law repealed by this part shall be available for expenditure by the Interstate Commerce Commission for any objects of expenditure authorized by this part, in the discretion of the Interstate Commerce Commission, without regard to the requirement of apportionment under the Anti-Deficiency Act of February 27, 1906.

Funds available.

34 Stat. 48.  
31 U. S. C. § 665.

**"EXISTING ORDERS, RULES, TARIFFS, AND SO FORTH; PENDING MATTERS**

"SEC. 322. (a) Notwithstanding the provisions of section 320, or any other provision of this part, all orders, rules, regulations, permits, tariffs (including rates, fares, charges, classifications, rules, and regulations relating thereto), contracts, or agreements, to the extent that they were issued, authorized, approved, entered into, or filed under any provision of law repealed by this part, and are still in effect, shall continue in force and effect according to the terms thereof as though this part had not been enacted, except that the Commission may modify, set aside, or rescind any such order, rule, regulation, permit, tariff, contract, or agreement to the extent that it finds the same to be in violation of any provision of this part or inconsistent with the national transportation policy declared in this Act.

Continuance of certain orders, etc.  
*Ante*, p. 950.

Exception.

"(b) Any proceeding, hearing, or investigation commenced or pending before the United States Maritime Commission at the time this section takes effect, to the extent that it relates to the administra-

Proceedings, hearings, or investigations.

tion of any provision of law repealed by this part, shall be continued or otherwise acted upon by the Commission as though such proceeding, hearing, or investigation had been instituted under the provisions of this part.

Judicial proceed-  
ings.

“(c) Any pending judicial proceeding arising under any provision of law repealed by the provisions of this part shall be continued, heard, and determined in the same manner and with the same effect as if this part had not been enacted; except that in the case of any such proceeding to which the United States Maritime Commission is a party, the court, upon motion or supplemental petition, may direct that the Commission be substituted for the United States Maritime Commission as a party to the proceeding or made an additional party thereto.

#### “SEPARABILITY OF PROVISIONS

Separability of pro-  
visions.

“SEC. 323. If any provision of this part or the application thereof to any person, or commerce, or circumstance is held invalid, the remainder of the part and the application of such provision to other persons, or commerce, or circumstances shall not be affected thereby.”

#### TIME EFFECTIVE

Time effective.

SEC. 202. Part III of the Interstate Commerce Act shall take effect on the date of the enactment of this Act, except that sections 304 (c), 305 to 308, inclusive, 309 (a) and (f), 313 to 318, inclusive, 320, 321, and 322 shall take effect on the 1st day of January 1941: *Provided, however,* That the Interstate Commerce Commission shall, if found by it necessary or desirable in the public interest, by general or special order postpone the taking effect of any of the provisions above enumerated to such time, but not beyond the 1st day of April 1942, as the Commission shall prescribe.

*Proviso.*  
Postponement per-  
mitted.

### TITLE III—MISCELLANEOUS

#### PART I—INVESTIGATION OF VARIOUS MODES OF TRANSPORTATION

Board of investiga-  
tion and research.  
Composition.

SEC. 301. There is hereby established a board of investigation and research (hereinafter referred to as the “Board”) to be composed of three members who shall be appointed by the President, by and with the advice and consent of the Senate, for the period of the existence of the Board as hereinafter provided. Not more than two members of said Board shall be members of the same political party. The President shall designate the member to act as Chairman of the Board and the Board may elect another of its members as Vice Chairman, who shall act as Chairman in the case of absence or incapacity of the Chairman. A majority of the Board shall constitute a quorum and the powers conferred upon the Board by this section may be exercised by a majority vote of its members. A vacancy on the Board shall not affect the powers of the remaining members to execute the functions of the Board, and shall be filled in the same manner as the original selection. The members of the Board shall receive compensation at the rate of \$10,000 per annum, and in addition shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the exercise of the functions vested in the Board. Carriers by railroad, motor carriers, and water carriers shall be permitted to provide free transportation and other carrier service to the Board and its employees while traveling on official business, regardless of any provisions in the Interstate Commerce Act, as amended, restricting such carriers from furnishing free transportation or service.

Compensation of  
members.

Free transporta-  
tion, etc.

24 Stat. 379.  
49 U. S. C., ch. 1;  
Supp. V, ch. 1.

SEC. 302. (a) It shall be the duty of the Board to investigate—

(1) the relative economy and fitness of carriers by railroad, motor carriers, and water carriers for transportation service, or any particular classes or descriptions thereof, with the view of determining the service for which each type of carrier is especially fitted or unfitted; the methods by which each type can and should be developed so that there may be provided a national transportation system adequate to meet the needs of the commerce of the United States, of the Postal Service and of the national defense;

Investigations.  
Economy and fitness of carriers.

(2) the extent to which right-of-way or other transportation facilities and special services have been or are provided from public funds for the use, within the territorial limits of the continental United States, of each of the three types of carriers without adequate compensation, direct or indirect, therefor, and the extent to which such carriers have been or are aided by donations of public property, payments from public funds in excess of adequate compensation for services rendered in return therefor, or extensions of Government credit; and

Right-of-way, etc., facilities.

(3) the extent to which taxes are imposed upon such carriers by the United States, and the several States, and by other agencies of government, including county, municipal, district, and local agencies.

Extent taxes are imposed.

(b) The Board is further authorized, in its discretion, to investigate or consider any other matter relating to rail carriers, motor carriers, or water carriers, which it may deem important to investigate for the improvement of transportation conditions and to effectuate the national transportation policy declared in the Interstate Commerce Act, as amended.

Improvement of transportation.

24 Stat. 379.  
49 U. S. C., ch. 1;  
Supp. V, ch. 1.

SEC. 303. The Board is authorized to employ, without regard to the civil service laws or the Classification Act, 1923, as amended, a secretary who shall receive compensation at the rate of \$7,500 per annum and a general counsel who shall receive compensation at the rate of \$9,000 per annum; and to employ, without regard to the civil service laws, a clerk to each member of the Board. The Board is also authorized to employ such experts, assistants, special agents, examiners, attorneys, and other employees as in its judgment may be necessary for the performance of its duties, and is authorized to utilize the services, information, facilities, and personnel of the various departments and agencies of the Government to the extent that such services, information, facilities, and personnel, in the opinion of such departments and agencies, can be furnished without undue interference with the performance of the work and duties of such departments and agencies.

Secretary, general counsel, etc.  
42 Stat. 1488.  
5 U. S. C. §§ 661-674;  
Supp. V, §§ 673, 673c.

Experts and other employees.

Utilization of Government agencies.

SEC. 304. (a) The Board and its agents shall at all times have access to all accounts, records, and memoranda of the carriers and to their properties, and it shall be the duty of the carriers to furnish the Board or its agents such information and reports as it may desire in investigating any matter within the scope of its duties.

Accessibility of accounts, records, and memoranda.

(b) For the purpose of carrying out the provisions of this part the Board may seek information from such sources and conduct its investigations in such manner as it deems advisable in the interest of a correct ascertainment of the facts, and the Board and its examiners shall be entitled to exercise the same powers with respect to conducting hearings and requiring the attendance of witnesses and the production of books, papers, correspondence, memoranda, contracts, agreements, or other records and documents as are conferred upon the Interstate Commerce Commission and its examiners by sections 17 and 12 of the Interstate Commerce Act, as amended, and the provisions of paragraphs (3), (4), and (7) of section 12 of such Act shall be applicable

Information from other sources.

*Ante*, pp. 910, 913.



to all persons summoned by subpoena or otherwise to attend and testify or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records and documents before the Board.

Preliminary reports, etc., to the President and to Congress.

Annual report, etc.

SEC. 305. On or before May 1, 1941, the Board shall transmit to the President and to the Congress preliminary reports of the studies and investigations carried on by it, together with such findings and recommendations as it is by that time prepared to make. In addition to such preliminary reports the Board shall submit to the President and to the Congress an annual report, a final report, and such other reports as it may deem necessary, of the studies and investigations carried out by it pursuant to the provisions of this section, together with its findings and recommendations based thereon.

Termination.

SEC. 306. This part shall cease to have effect at the end of two years after its enactment unless extended by a proclamation of the President for an additional period which shall not exceed two years.

## PART II—RATES ON GOVERNMENT TRAFFIC

### GOVERNMENT TO PAY FULL RATES

Government to pay full rates.  
*Ante*, p. 900.

Exception.

Transportation of U. S. mail.

*Provisos.*  
Mail contracts.

Advertising for bids.

If carrier a grantee of lands from U. S.

Release of claim against U. S.

Issuance of patents to lands.

SEC. 321. (a) Notwithstanding any other provision of law, but subject to the provisions of sections 1 (7) and 22 of the Interstate Commerce Act, as amended, the full applicable commercial rates, fares, or charges shall be paid for transportation by any common carrier subject to such Act of any persons or property for the United States, or on its behalf, except that the foregoing provision shall not apply to the transportation of military or naval property of the United States moving for military or naval and not for civil use or to the transportation of members of the military or naval forces of the United States (or of property of such members) when such members are traveling on official duty; and the rate determined by the Interstate Commerce Commission as reasonable therefor shall be paid for the transportation by railroad of the United States mail: *Provided, however*, That any carrier by railroad and the United States may enter into contracts for the transportation of the United States mail for less than such rate: *Provided further*, That section 3709, Revised Statutes (U. S. C., 1934 edition, title 41, sec. 5), shall not hereafter be construed as requiring advertising for bids in connection with the procurement of transportation services when the services required can be procured from any common carrier lawfully operating in the territory where such services are to be performed.

(b) If any carrier by railroad furnishing such transportation, or any predecessor in interest, shall have received a grant of lands from the United States to aid in the construction of any part of the railroad operated by it, the provisions of law with respect to compensation for such transportation shall continue to apply to such transportation as though subsection (a) of this section had not been enacted until such carrier shall file with the Secretary of the Interior, in the form and manner prescribed by him, a release of any claim it may have against the United States to lands, interests in lands, compensation, or reimbursement on account of lands or interests in lands which have been granted, claimed to have been granted, or which it is claimed should have been granted to such carrier or any such predecessor in interest under any grant to such carrier or such predecessor in interest as aforesaid. Such release must be filed within one year from the date of the enactment of this Act. Nothing in this section shall be construed as requiring any such carrier to reconvey to the United States lands which have been heretofore patented or certified to it, or to prevent the issuance of patents confirming the title to such lands as the Secretary

of the Interior shall find have been heretofore sold by any such carrier to an innocent purchaser for value or as preventing the issuance of patents to lands listed or selected by such carrier, which listing or selection has heretofore been fully and finally approved by the Secretary of the Interior to the extent that the issuance of such patents may be authorized by law.

#### DEDUCTION OF OVERPAYMENTS

SEC. 322. Payment for transportation of the United States mail and of persons or property for or on behalf of the United States by any common carrier subject to the Interstate Commerce Act, as amended, or the Civil Aeronautics Act of 1938, shall be made upon presentation of bills therefor, prior to audit or settlement by the General Accounting Office, but the right is hereby reserved to the United States Government to deduct the amount of any overpayment to any such carrier from any amount subsequently found to be due such carrier.

Deduction of over-payments.

24 Stat. 379.  
49 U. S. C., ch. 1;  
Supp. V, ch. 1.  
52 Stat. 973.  
49 U. S. C., Supp.  
V, ch. 9.

#### PART III—AMENDMENTS TO RECONSTRUCTION FINANCE CORPORATION ACT

SEC. 331. (a) Section 5 of the Reconstruction Finance Corporation Act, as amended, is amended by amending that portion of the third sentence, of the third paragraph, which precedes the last proviso in such sentence to read as follows: "Within the foregoing limitations of this section, the Corporation, notwithstanding any limitation of law as to maturity, with the approval of the Interstate Commerce Commission, including approval of the price to be paid, may, to aid in the financing, reorganization, consolidation, maintenance, or construction thereof, purchase for itself, or for account of a railroad obligated thereon, the obligations of railroads engaged in interstate commerce, or of receivers or trustees thereof, including equipment trust certificates, or guarantee the payment of the principal of, and/or interest on, such obligations, including equipment trust certificates, or, when, in the opinion of the Corporation, funds are not available on reasonable terms through private channels, make loans, upon full and adequate security, to such railroads or to receivers or trustees thereof for the purposes aforesaid: *Provided*, That in the case of loans to or the purchase or guarantee of obligations, including equipment trust certificates, of railroads not in receivership or trusteeship, the Interstate Commerce Commission shall, in connection with its approval thereof, also certify that such railroad, on the basis of present and prospective earnings, may reasonably be expected to meet its fixed charges, without a reduction thereof through judicial reorganization, except that such certificate shall not be required in case of such loans, purchases, or guaranties made for the maintenance of, or purchase of equipment for, such railroads: *Provided further*, That for the purpose of determining the general funds of the Corporation available for further loans or commitments, such guaranties shall, to the extent of the principal amount of the obligations guaranteed, be interpreted as loans or commitments for loans: *And provided further*, That the total amount of loans and commitments to railroads, receivers, and trustees, and purchases and guaranties of obligations of railroads, under this paragraph, as amended, shall not exceed at any one time \$500,000,000, in addition to loans and commitments made prior to January 31, 1935, and renewals of loans and commitments so made."

Purchase of railroad obligations.  
47 Stat. 6.  
15 U. S. C. § 605;  
Supp. V, § 605.

Loans.

*Provisos.*  
Purchase or guarantee of obligations.

Guaranties to be interpreted as loans, etc.

Maximum amount.

Title to property leased, etc., to railroad financed by R. F. C.

(b) Such section 5, as amended, is further amended by adding at the end of the third paragraph thereof the following sentence: "The title of any owner, whether as trustee or otherwise, to any property leased or conditionally sold to a railroad, or a receiver or trustee

thereof, which the Corporation has financed, or in the financing of which the Corporation has aided, any right of such owner to take possession of such property in compliance with the provisions of any such lease or conditional sales contract, and the title of any owner of a collateral note evidencing a loan from the Corporation to a railroad not now in receivership or involved in proceedings under section 77 of the Bankruptcy Act, or a receiver or trustee thereof, and the right of any such owner to acquire title to the collateral securing such note, free and clear of any equity of redemption, in compliance with the contract of pledge, and thereafter to deal with the same as the absolute owner thereof, shall not be affected, restricted, or restrained by or pursuant to the provisions of the Act of July 1, 1898, entitled 'An Act to establish a uniform system of bankruptcy throughout the United States', as amended, or by or pursuant to any other provision of law applicable to any proceedings thereunder."

(c) The first sentence of section 3 of the Act approved January 31, 1935 (49 Stat., ch. 2, pp. 1-2), is hereby amended by striking out "January 31, 1945" and inserting in lieu thereof "January 31, 1955".

Approved, September 18, 1940.

#### [CHAPTER 723]

#### AN ACT

To authorize the Secretary of the Navy to proceed with the construction of certain public works, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Navy is hereby authorized to proceed with the construction of the following public work projects at a cost not to exceed the amount stated after each item enumerated:

Third naval district: Graving drydock and accessory construction in New York Harbor, including acquisition of site, \$10,000,000.

Caribbean area: Graving drydock and accessory construction, including acquisition of site, \$7,500,000.

First naval district: Improvements to South Boston drydock, \$6,180,000.

SEC. 2. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the purposes of this Act.

Approved, September 18, 1940.

#### [CHAPTER 724]

#### AN ACT

To authorize the Secretary of the Navy to accept on behalf of the United States certain lands in the city of National City, California.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Navy be, and he is hereby, authorized on behalf of the United States to accept from the city of National City, California, without cost to the United States, all right, title, and interest of the said city in and to the following-described area of tide and submerged lands:

All lands situated on the National City side of the San Diego Bay, lying between the line of the mean high tide line and the pierhead line in said bay, as the same has been or may hereafter be established by the Federal Government, and between the prolongation into the Bay of San Diego, to the pierhead line of the boundary line between the city of National City and the city of San Diego

47 Stat. 1474.  
11 U. S. C. § 205;  
Supp. V, § 205.

30 Stat. 544.  
11 U. S. C.; Supp. V.

49 Stat. 2.  
15 U. S. C., Supp. V,  
§ 605m.

September 18, 1940  
[S. 4165]  
[Public, No. 786]

Navy.  
Public work proj-  
ects.

Appropriation au-  
thorized.  
Post, p. 972.

September 21, 1940  
[S. 2991]  
[Public, No. 787]

National City,  
Calif.  
Acceptance of cer-  
tain lands by U. S.

Description.